

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 17 August 2021

Public Authority: The Governing Body of
All Souls College of the Faithful Departed

Address: Oxford
OX1 4AL

Decision (including any steps ordered)

1. The complainant has requested information on the aim of All Souls College of the Faithful Departed ('ASC'). ASC has refused the request under section 21 of the FOIA as it considers that information within scope of the request is already accessible to the complainant.
2. The Commissioner's decision is as follows:
 - ASC is entitled to rely on section 21(1) of the FOIA as information within scope of the complainant's request is already reasonably accessible to him on ASC's website.
3. The Commissioner does not require ASC to take any remedial steps.

Request and response

4. On 10 October 2020 the complainant wrote to ASC and requested information in the following terms:

""The College is primarily an academic research institution with particular strengths in the humanities and social and theoretical sciences and an outstanding library. It also has strong ties to public life. Although its Fellows are involved in teaching and supervision of research, there are no undergraduate members."

Would that be a good description of the aim of ASC and if not what is - in terms of its regulations and statutes.”

5. ASC responded on 30 October 2020. It handled the above correspondence under the FOIA, refusing to comply with the request which it categorised as a vexatious request under section 14(1) of the FOIA.
6. The complainant requested an internal review on 30 October 2020 and, in that correspondence, he wrote “... and please in the review indicate... how you got to the position that this was an FOI request”. This suggests that the complainant considered that ASC should not have handled his correspondence under the FOIA. However, in its review response of 12 November 2020, ASC upheld its position.
7. In the course of the Commissioner’s investigation, ASC wrote to the complainant again on 5 July 2021. In this correspondence, ASC said it agreed it had been incorrect to handle the complainant’s 10 October 2020 under the FOIA. This was because, it advised, the FOIA does not oblige a public authority to create new information, give opinions or judgements and, in his correspondence [of 10 October 2020], the complainant had asked for ASC’s opinion or judgement. ASC directed the complainant to its website where it said information about the College is published.
8. Despite having queried ASC’s handling of his request under the FOIA, the complainant had by this point submitted a complaint to the Commissioner under section 50 of that Act. The Commissioner reviewed the request to see whether it could be categorised as a request for recorded information under the FOIA. It is not a well-framed FOI request, but the Commissioner considered that it was conceivable that ASC held recorded information about its “aim”, and she advised ASC as such.
9. As a result, ASC provided the complainant with a further response on 16 July 2021. It relied on section 21 of the FOIA to refuse the request. It provided the complainant with links to its website where information about its aims and statutes are already published. ASC noted that it had already provided the complainant with the links to the page of its website that it considered refers to the College’s aim and had already provided him with copies of its By-Laws in response to a separate request he had submitted.

Scope of the case

10. The complainant first contacted the Commissioner on 19 November 2020 to complain about the way his request for information had been handled. Following ASC's fresh response of 16 July 2021, the complainant confirmed that he remained dissatisfied.
11. The Commissioner's investigation has focussed on whether ASC is entitled to rely on section 21(1) of the FOIA to refuse the complainant's request.

Reasons for decision

12. Under section 1(1) of the FOIA anyone who requests information from a public authority is entitled under subsection (a) to be told if the authority holds the information and, under subsection (b) to have the information communicated to them if it is held and is not exempt information.
13. Section 21(1) of the FOIA says that information which is reasonably accessible to the applicant otherwise than under section 1 is exempt information.
14. Section 21 provides an absolute exemption. This means that if the requested information is held by the public authority, and it is reasonably accessible to the applicant by other means, it is not subject to the public interest test.
15. Interpreted as a request for recorded information under the FOIA, in his correspondence to ASC of 10 October 2020 the complainant has requested information about the College's "aim".
16. ASC sent the complainant a link to an area of its website that provides general information about the College. The Commissioner has reviewed this area¹. The information under the 'History of the College' link appears to the Commissioner to be particularly relevant to the complainant's request, and to discuss ASC's aim. The discussion concludes with the following:

¹ <https://www.asc.ox.ac.uk/about-all-souls>

"...Yet they all build upon the two founders' fundamental vision of a College that promotes both pure and applied research as well as intellectual engagement with a wider world."

That, in the Commissioner's view, would appear to be ASC's aim: to promote pure and applied research and to engage intellectually with the wider world.

17. On 19 July 2021 the Commissioner asked the complainant to tell her what recorded information it was that he was expecting to receive when he submitted his request to ASC.
18. In correspondence to the Commissioner on 2 and 3 August 2021 the complainant did not address that question with any degree of clarity but put forward an argument as to why section 21 is not engaged. This was a photograph of an error message on, presumably, the complainant's computer which reads: "The page that you are trying to access cannot be loaded".
19. The Commissioner does not consider that to be a compelling argument. The photograph is evidence that the complainant has access to the internet and that, in normal circumstances, information within scope of his request is therefore reasonably accessible to the complainant through ASC's website. That he was not able to access a particular page on the occasion when he took the photograph suggests a temporary problem with his internet provision (for which ASC cannot be held responsible) rather than ASC's website not being available to him. And even if it was the case that ASC's website was experiencing a problem when the complainant tried to access the information, that problem was temporary. At the date of this notice, and on a number of occasions previously, the Commissioner has accessed the webpage in question without any problem.
20. To the degree that ASC holds recorded information within the scope of the complainant's request, the Commissioner's decision is therefore that such information is already reasonably accessible to the complainant on ASC's website and that it was entitled to rely on section 21(1) of the FOIA to refuse the complainant's request.

Other matters

21. Having queried with ASC its handling of his request under the FOIA, his subsequent section 50 complaint to, and correspondence with, the Commissioner have indicated that the complainant *does* in fact consider his request should be considered under the FOIA. As such, and as she has noted, the Commissioner does not consider the complainant's correspondence of 10 October 2020 to be a well framed request under the FOIA. That correspondence could reasonably be interpreted more as a request for ASC's judgement on a particular matter. The FOIA does not oblige a public authority to give opinions, judgements, clarifications or explanations or to answer general queries.
22. Under section 8(1) of the FOIA a valid request for information is one which: is in writing; gives the applicant's name and address for correspondence; and describes the information requested. The Commissioner has published guidance for applicants on how to word a request in order to get the best result². The complainant may find this guidance helpful if he wants to submit a FOI request in the future.

² <https://ico.org.uk/your-data-matters/official-information/>

Right of appeal

23. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals
PO Box 9300
LEICESTER
LE1 8DJ

Tel: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

24. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
25. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Signed

Cressida Woodall
Senior Case Officer
Information Commissioner's Office
Wycliffe House
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Cheshire
SK9 5AF