

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 3 April 2023

Public Authority: The Council of the University of Cambridge
Address: The Old Schools
Trinity Lane
Cambridge
CB2 1TN

Decision (including any steps ordered)

1. The complainant has requested information relating to whether The Council of the University of Cambridge (the University) has a insurance policy which covers employees legal fees.
2. The Commissioner's decision is;
 - The University has breached section 16 of FOIA by failing to engage with the complainant to clarify the nature and scope of the request.
 - The University, on the balance of probabilities, does not hold additional information within the scope of the request except for the policy itself.
 - The University breached section 10(1) of FOIA by not providing a response to the insurance policy request within 20 working days.
3. The Commissioner does not require the public authority to take any further steps.

Request and response

4. On 27 October 2022, the complainant wrote to the Council and requested information in the following terms:

"Are there any circumstances under which the University's insurance would pay for the legal fees of one of its employees in a case where

that employee is sued for defamation by another one of the University's employees? If there are such circumstances, what would they be (bearing in mind that the University would thereby treat one employee more favourably than the other)?"

5. The Council responded on 28 October 2022. It provided information within the scope of the request.
6. Following an internal review the Council wrote to the complainant on 23 November 2022. It stated that no further information is held within the scope of the request.
- 7.

Reasons for decision

Section 16

8. Section 16 of FOIA places a duty on a public authority to provide "reasonable" advice and assistance to those making and wishing to make information requests. A public authority will have complied with its section 16 duty where it has followed the Code of Practice issued under Section 45 of FOIA.
9. The Code of Practice requires a public authority to seek clarification of requests which are unclear or which are capable of multiple objective readings.
- 10.
11. The University explained to the Commissioner that it was "clear" from this request that the complainant was not asking for insurance policies, but rather internal University documentation.
12. The Commissioner is not satisfied that the reading the University provided, is the only objective reading of this request. The most obvious reading would be one that includes the wording of the relevant section of the insurance policy. The Complainant advised the Commissioner "there is no reason why the policy document cannot be provided."
13. The Commissioner therefore finds that the University has breached section 16 of the FOIA by failing to engage with the complainant to clarify the nature of the request in the first instance. It should not have assumed that he (the complainant) did not wish to receive a copy of (at least the relevant section of) the policy without having first clarified this.

14. Given that the Commissioner is aware that the complainant has made separate requests for the relevant sections of the policy, the Commissioner does not consider that it would be proportionate to require the public authority to issue any further response in respect of this request. He has instead gone on to consider whether any further information (besides the policy itself) is held.

Section 1(1) FOIA provides that:

"Any person making a request for information to a public authority is entitled –

(a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and
(b) if that is the case, to have that information communicated to him."

15. The Commissioner has sought to determine whether, on the balance of probabilities, the University holds recorded information relevant to the scope of request.
16. The University explained to the complainant that it does hold insurance cover for things such as: libel or slander against any University employee acting in the course of their employment. However it was unable to provide any "explanations of policies or procedures where that information does not already exist. No information within the scope of your questions... is held."
17. In response to the Commissioner's investigation, the University advised enquiries were made to staff in the University's Insurance Office and Legal Services Division. It confirmed that information within the scope of the request was not held, It explained that the requested information simply does not and would not exist, as it is not how claims under insurance operate.
18. The University explained that each claim is assessed on its merits by the insurance office, the insurer or the broker against the wording of the policy. As such, there is no need to have generated internal procedural documents, outlining in general terms the circumstances in which different claims may or may not be taken forward.
19. The University advised that as it was already confirmed no records would exist, no further searches had been undertaken for the requested information.
20. The complainant explained to the University that its response did not clearly explain whether the University will pay legal fees for all employees, or are there special circumstances in which the policy operates.

21. The Commissioner has decided, on the balance of probabilities, the University does not hold any further information within the scope of the request besides the insurance policy itself.
22. No steps are required as the request for the insurance policy has now been addressed in a separate request.

Procedural breaches

23. As the University did not correctly interpret the request, it failed to respond to comply with its duty under section 1(1)(a) of FOIA within 20 working days and therefore breached section 10(1) of FOIA.

Other matters

24. If the complainant is dissatisfied with the way that the University has dealt with his separate requests for a copy of the policy, he is entitled to make a separate complaint.

Right of appeal

25. 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

26. 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.
27. 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

Roger Cawthorne
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF