

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 23 August 2018

Public Authority: St George's, University of London
Address: Cranmer Terrace
London
SW17 0RE

Decision (including any steps ordered)

1. The complainant has requested a copy of the interruptions policy that was in force during a specific time period.
2. The Commissioner's decision is that St George's, University of London ("the University") has disclosed all the information it holds within the scope of the request and has therefore complied with its Section 1 duty. However, it did not issue a response within 20 working days and therefore breached Section 10 of the FOIA.
3. The Commissioner does not require the University to take further steps.

Request and response

4. On 28 October 2016, the complainant wrote to the University and requested information in the following terms:

"I would be grateful if you could send me the text of whatever the St George's interruptions policy or policies were that applied to MBBS students between 1 July 2015 and May 2016. I have searched the

*SGUL Portal but have not been able to find these texts. Please note that I have the policy texts for May 2016 onwards.*¹

5. As the University did not respond, the complainant sent a further letter dated 27 January 2017 by recorded delivery.
6. The University responded on 1 March 2017. It provided copies of the policies it said were in place at the time.
7. Following an internal review the University wrote to the complainant on 9 March 2017. It stated that it had provided all the information within the scope of the request.

Scope of the case

8. The complainant first contacted the Commissioner on 19 February 2017 to complain about the way her request for information had been handled. The Commissioner accepted the case for formal investigation on 9 March 2017. Unfortunately a mistake in the Commissioner's Office caused the investigation to be delayed by some 11 months. This is set out in more detail below.
9. The scope of the Commissioner's investigation was to determine whether the University held more information within the scope of the request. She has also assessed the University's compliance with the procedural aspects of the FOIA.

Reasons for decision

Section 10

10. Section 1(1) of the FOIA states that:

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

¹ The complainant's letter contained 3 other paragraphs requesting information. As these paragraphs contain personal data which might identify the complainant and because they do not form part of the scope of this decision notice, the Commissioner will not reproduce those other paragraphs here.

- (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.*

11. Section 8(1) of the FOIA states:

In this Act any reference to a "request for information" is a reference to such a request which –

- (a) *is in writing,*
 - (b) *states the name of the applicant and an address for correspondence, and*
 - (c) *describes the information requested.*
12. The Commissioner considers that the request in question fulfilled these criteria and therefore constituted a valid request for recorded information under the FOIA.
13. Section 10 of the FOIA states that responses to requests made under the Act must be provided "*promptly and in any event not later than the twentieth working day following the date of receipt.*"
14. It is unclear, from the evidence before the Commissioner, whether or not the University received the original request in October 2016. However, the University has stated that it received a copy of the request on 30 January 2017. As it did not issue its response until 1 March 2017, the University has breached Section 10 of the FOIA anyway and it is unnecessary for the Commissioner to offer an opinion as to whether the original request was received.

Section 1

15. In cases where a dispute arises over the extent of the recorded information that was held by a public authority at the time of a request, the Commissioner will consider the complainant's evidence and arguments. She will also consider the actions taken by the authority to check that the information is not held and any other reasons offered by the public authority to explain why the information is not held. Finally, she will consider any reason why it is inherently likely or unlikely that information is not held.
16. For clarity, the Commissioner is not expected to prove categorically whether the information is held, she is only required to make a judgement on whether the information is held on the civil standard of the balance of probabilities.

The University's position

17. The University's position is that the complaint asked for a copy of a policy (or policies) which were in place at a specific point in time. As it has provided copies of those policies, it believes it has complied with the request.

The complainant's position

18. In a letter to the Commissioner, the complainant advanced five arguments which, she felt, demonstrated that the University had not complied with her request. These can be summarised as follows:
- a. The University must have had a policy in 2014 and/or 2015 and hasn't provided this
 - b. The University has not provided copies of the correspondence documenting the evolution of the policy that the University has provided.
 - c. The University has not provided copies of the minutes of its Senate (its decision-making body) or its sub-committees which relate to the formulation of the policy.
 - d. The complainant has been informed by the BMA that the University had a policy prior to 2016.
 - e. The University has misunderstood the scope of her request.

The Commissioner's position

19. The Commissioner's view is that the University has not misunderstood the scope of the request. In the Commissioner's opinion, the University has correctly interpreted the request and, on the balance of probabilities, has complied with the request.
20. The complainant's request was clear and it was specific. She asked for "the text of whatever the St George's interruptions policy or policies were that applied to MBBS students between 1 July 2015 and May 2016"
21. The University may well hold documentation charting the evolution of its policies. It may also hold copies of earlier policies. Whether it holds such information or not (and the Commissioner takes no position either way) is irrelevant to this request – which was for "the text of" a specific policy, in force at a specific time.

22. The Commissioner has seen no suggestion, in any of her correspondence with the complainant, that the documents which the University has provided did not reflect the policy which was in use during the time period defined in the request. On the balance of probabilities, the Commissioner is therefore satisfied that the documents correctly reflect the policy and the University has therefore complied with its Section 1 duty.
23. If the complainant wants copies of the information described above, she will need to make a fresh request.

Other matters

24. The Commissioner wishes to offer her apologies to the complainant and, to a lesser extent, to the University for the delays that occurred in the course of this investigation.
25. Due to an administrative error in the Commissioner's Office, the case was not reopened in May 2017 when it should have been. It was only when the complainant then contacted the Commissioner again in February 2018, to request an update, that this error came to light. This was highly regrettable.

Right of appeal

26. 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: 0300 1234504

Fax: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk

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

27. 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.
28. 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

**Ben Tomes
Team Manager
Information Commissioner's Office
Wycliffe House
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Cheshire
SK9 5AF**