

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 22 November 2016

Organisation: Ridley Hall
Address: Ridley Hall Road
Cambridge
CB3 9HG

Decision (including any steps ordered)

1. The complainant has requested copies of various policies operated by Ridley Hall, a theological college. Ridley Hall did not initially respond to the request and subsequently explained that it was not obliged to on the basis that it was not a public authority for the purposes of FOIA. The Commissioner has determined that Ridley Hall is not subject to FOIA and therefore it did not have a duty to issue a response under the legislation. Accordingly, she does not require any steps to be taken as a result of this notice.

Request and response

2. On 15 May 2016 the complainant wrote to Ridley Hall and requested information in the following terms:

Please assist me by providing me with copies of the following:

(1) Ridley Hall Complaints Policy/Procedure (admissions).

(2) Ridley Hall Equal Opportunities Policy (admissions).

(3) Ridley Hall Admissions Policy.

3. Ridley Hall did not specifically respond to the requests. However, in previous correspondence with the complainant, Ridley Hall had advised that it was not subject to FOIA.

Scope of the case

4. The complainant contacted the Commissioner to ask her to determine whether Ridley Hall had a duty under FOIA to respond to his requests.
5. In the case of *Fish Legal v Information Commissioner & Others* (GIA/09797/2011 & GIA/0980/2011)¹, the Upper Tribunal ruled that the Commissioner has jurisdiction to investigate and decide whether a body is a public authority. Her decision on the status of Ridley Hall follows.

Reasons for decision

Definition of a public authority in FOIA

6. FOIA provides public access to information held by public authorities. It does this in two ways: public authorities are obliged to publish certain information about their activities; and members of the public are entitled to request information from public authorities.
7. The definition of a 'public authority' is given in section 3(1) of FOIA. This states that under FOIA a public authority means –
 - (a) subject to section 4(4), any body which, any other person who, or the holder of any office which –
 - (i) is listed in Schedule 1, or
 - (ii) is designated by order under section 5, or
 - (b) a publicly-owned company as defined by section 6
8. The Commissioner has found that neither sections 3(1)(a)(ii) or 3(1)(b) are relevant. She has therefore gone on to consider whether Ridley Hall falls within the definition set out at section 3(1)(a)(i). Ridley Hall is not explicitly mentioned in Schedule 1. The complainant has argued, however, that it would fall under section 3(1)(a)(i) by virtue of it being a specified educational institution. In particular, he argues that Ridley Hall constitutes a public authority for the purposes of FOIA as a result of its relationship with the Faculty of Divinity at Cambridge University.

¹ <http://www.bailii.org/uk/cases/UKUT/AAC/2015/52.html>

Section 53(1) – Part IV of Schedule 1

9. Part IV of Schedule 1 refers to educational institutions and states at paragraph 53(1) that a public authority includes the governing body of five different categories of bodies. These are listed below alongside a summary of Ridley Hall's explanations which demonstrate why it considers it does not fall within any of the categories.
10. Section 53(1) states that a public authority includes the governing body of -

- (a) an institution within the further education sector

Ridley Hall: Further education is interpreted to mean education that is usually taught in the sixth-form college part of a school, in independent Further Education colleges, as well as in other work-based, adult and community learning institutions. Based on this understanding, Ridley Hall states that it would not fall within the definition.

- (b) a university receiving financial support under section 65 of the Further and Higher Education Act 1992

Ridley Hall: Ridley Hall explained it is not a university but an Anglican theological college. While it is affiliated with Cambridge University, the Hall cannot matriculate its own students, so the minority of the students who are taking Cambridge University degrees do so through membership of full university colleges. The cost of training is met by a combination of funding from the Church of England and, if necessary, ancillary grants from private trusts.

- (c) an institution conducted by a higher education corporation

Ridley Hall: This category was understood by Ridley Hall to refer to bodies maintained by Local Education Authorities, which is not the case with the Hall.

- (d) a designated institution for the purposes of Part II of the Further and Higher Education Act 1992 as defined by section 72(3) of that Act

Ridley Hall: The Hall does not fall into the group of organisations that were formerly classified as polytechnics.

- (e) any college, school, hall or other institution of a university which falls within paragraph (b).

Ridley Hall: As explained above, Ridley Hall is not considered to be a college or institution of Cambridge University.

11. In the view of the Commissioner, the key question that must be determined in this case is whether, in relation to section 53(1)(e), Ridley Hall was correct to say that it should not be considered a college or institution of Cambridge University. To do this, the Commissioner has looked at the links between Ridley Hall and the University, including matters such as governance, funding and administration.
12. In terms of its role and functions, Ridley Hall clarified that its primary purpose is to train clergy for the Church of England. This training is funded by the Church of England and the students are referred to as ordinands. The Hall also trains a smaller number of part-time Children, Youth and Mission (CYM) students, who undertake an endorsed pathway on Common Awards, as independent students. These students do have access to student loans to pay for their tuition fees because the Cambridge Theological Federation (the Federation) is an approved Funding Agency.
13. The Federation is made up of various religious member institutions, including Ridley Hall. Its website states that:

We offer a wider scope of resources for theological education and research, including specialised library collections in each of our nine member institutions, and, through our relationships and networks, access to world-class research and numerous churches and communities. We build on our close ties with the University of Cambridge's Faculty of Divinity to share innovation and tradition in research and teaching.²
14. Ridley Hall has informed the Commissioner that the aforementioned student fees are not paid directly to it but via the Federation and the Hall itself does not receive public funding. Some of Ridley Hall's teaching staff mark papers for the Cambridge University Bachelor of Theology for Ministry (BTh) degree but they are only recognised as affiliated staff.
15. The Divinity Faculty is one of several institutions to which Ridley Hall relates. According to Ridley Hall, the Divinity Faculty does operate a degree of oversight in respect of the courses taken by some of Ridley Hall's students. However, Ridley Hall states the relationship is only a small part of the overall network of relationships and the Hall has stressed to the Commissioner that its work is not dependent on the Divinity Faculty. Instead, the majority of the Hall's students take the previously mentioned Common Award degrees, which are administered

² <http://www.theofed.cam.ac.uk/>

by a validating partnership between the University of Durham and Church of England Ministry Division. It is the Ministry which inspects the college on a regular basis and approves the educational pathways – providing the ultimate oversight in respect of the Hall.

Analysis of the complainant's arguments

16. Using Ridley Hall's submissions, the Commissioner accepts there is evidently a close relationship between Ridley Hall, the Federation, and Cambridge University. However, in her correspondence with him the Commissioner advised the complainant that there appeared to be a clear division between the operations of the Hall and the University, which would mean that section 3(1)(a)(i) of FOIA would not apply, notwithstanding the strong links between the organisations. In response, the complainant argued that this assessment failed either to incorporate or give sufficient weight to a number of factors that indicated Ridley Hall would fall within the definition of a public authority. The thrust of these arguments are addressed below, with the Commissioner finding that they did not alter her original position.

1. Ridley Hall issues, and subsequently processes, application forms on behalf of Cambridge University

17. The BTh course is not one of the degree subjects offered by Cambridge University. The Cambridge University Faculty of Divinity website³ lists the degree subjects and other qualifications it offers – making clear that training for ministry is separate. It explains that training for ministry, including the BTh, is in fact offered in a different way and admissions to the vocational awards is at the discretion of BTh Management Committee, which reviews all applications on behalf of the Faculty Board.
18. The Management Committee is comprised of individuals from both University colleges and from member institutions of the Federation. It is not therefore operated by the University or by a college of the University but by a distinct arrangement particular to that course. It is not possible to undertake the degree course without the involvement of both the University and the Federation, working together but remaining separate entities.
19. It is evident then that Ridley Hall works together with the University, along with other member institutions of the Federation, in respect of the

³ <http://www.divinity.cam.ac.uk/subjects/ministry>

BTh and quite possibly in other academic and non-academic matters. In the view of the Commissioner, this is inevitable given the fact they are educational institutions, are in close geographical proximity, and have historic links. The Commissioner considers however that none of these arrangements make Ridley Hall a part of the University.

2. Ridley Hall is a 'theological house' of the Federation, which is simply the administrative body for the Theological Houses. The main sources of income for Ridley Hall are student tuition fees and maintenance charges.

20. The Commissioner is not aware of any evidence that would indicate Ridley Hall receives government funding to operate its course. The Quality Assurance Agency for Higher Education (QAA) – 'the independent body entrusted with monitoring, and advising on, standards and quality in UK higher education' – gives the status of the Federation, of which Ridley Hall is a member, as "Not publicly funded, without degree awarding powers"⁴.
21. Notwithstanding the above point, although Ridley Hall has stated that it does not receive public funds, it is noted that some of its students do receive student loans which they use to pay fees and the payment mechanism is via the Federation. This implies that Ridley Hall may receive some public funding, albeit via indirect means. In light of this, the Commissioner has explored whether the University uses its public funding to support Ridley Hall, which if it was the case would likely be an important factor when deciding whether the Hall was part of the University. The Commissioner has not however found any evidence that such support exists.
22. The Commissioner considers the fact that money from student loans is paid to Ridley Hall, whether directly or via the Federation, does not in itself mean that it is a public authority under FOIA. In any event it is important to note that receipt of fees from student loans is not confined to universities that are public authorities – student loans are available for students attending other private higher education institutions such as private universities.

⁴ <http://www.qaa.ac.uk/reviews-and-reports/provider?UKPRN=10032072#.WBdarspvjAV>

3. Ridley Hall uses the computer system of the University (cam.ac.uk)

23. The Commissioner considers that the use of the 'cam.ac.uk' domain name is not indicative of whether or not Ridley Hall is a public authority. She considers instead that there may be a number of practical or technical reasons for utilising the system.

4. The QAA has awarded the Federation and Ridley Hall status as Higher Education providers on the basis of being sub-contractors to the University.

24. The Commissioner understands that the QAA approves a number of higher education providers in the private sector. The award does not therefore necessarily denote public sector status. The Commissioner also observes that the classification of sub-contractor in itself suggests that a body is separate.

5. Cambridge University could not provide its BTh degree without direct partnership with Ridley Hall. Accordingly, Ridley Hall must at the very least be subject to FOIA in relation to matters concerning the degree.

25. For Ridley Hall to be subject to FOIA for this specific course, it would need to have been designated for this purpose under section 4 or section 5 of FOIA. This is not the case here. Although the University has entered into an arrangement with Ridley Hall and the Federation, it is not a necessary consequence of this that the organisations form part of the University or have public authority status under FOIA. Indeed, the websites of each organisation make clear the separation. For example, the Federation's website explains that to undertake a degree, students must join a Cambridge University college in addition to their membership of Ridley Hall. In the view of the Commissioner, this goes to support the separate status of the organisations.
26. What the closeness of the relationship between the organisations may mean however is that the Federation and its members, including Ridley Hall, hold information on behalf of the University. Again, this does not signify that the members are part of the University but it raises the possibility that information relating to the BTh could potentially be accessed under FOIA through the University.

Conclusion

27. What emerge from the Commissioner's analysis are the close links between Ridley Hall, the Federation, and Cambridge University. Her findings have though also established the separate status of Ridley Hall in terms of the application of FOIA. It is noteworthy in this respect that

Ridley Hall does not purport to be part of the University and, unlike other institutions that are part, does not use the University's corporate identity.

28. For the reasons outlined in the body of the notice, the Commissioner has determined that Ridley Hall is not an educational institution for the purposes of section 53(1) of Part IV and therefore is not listed as a public authority in Schedule 1. She has further decided that Ridley Hall does not fall within any of the remaining definitions of a public authority contained in FOIA. The effect of this finding is that Ridley Hall is not considered to be subject to FOIA and accordingly was not required to respond to the information requests under the legislation.

Right of appeal

29. 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

30. 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.

31. 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

Alun Johnson
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