

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 7 September 2023

Public Authority: The Governing Body of the University of
Coventry

Address: Priory Street
Coventry
CV1 5FB

Decision (including any steps ordered)

1. The complainant has requested various copies of correspondences and information relating to funding and grants from Coventry University ("the University").
2. The Commissioner's decision is that:
 - The University was entitled to rely on section 12(1) and 12(2) when responding to this request.
 - The University, on the balance of probabilities, does not hold any additional information within the scope of the request for question A.
 - The University breached section 10 and section 17 by failing to respond to the request within 20 working days and issue an appropriate refusal notice.
 - The University breached section 16, by failing to provide advice and assistance when responding to this request.
3. The Commissioner requires the University to take the following steps to ensure compliance with the legislation.
 - Provide advice and assistance to the complainant regarding how they can refine their request within the cost limit.

4. The University must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Act and may be dealt with as a contempt of court.

Request and response

5. On 19 September 2022, the complainant wrote to the University and requested information in the following terms:

"A) Documents, receipts, relating to of any funding, grants, expenses or recompensations received by the Centre for Trust Peace and Social Relations or by Prof. [name redacted] from the Republic of Azerbaijan, or from the Heydar Aliev Foundation, or the Karabakh Foundation?

B) Any emails, letters, or memos (if any) exchanged by Prof. [name redacted] with representatives of dictator Ilham Aliev, representatives of the government of Azerbaijan, or representatives of government-linked social movements, such as the so-called "Baku Process", "Baku Forum" ect.

C) Details, communications, emails relating to Prof. [name redacted] participation (if any) in the conference "Advancing Post-Conflict Humanitarian Agenda: Sustainable development through revitalization of cultural environment" held in the city of Shusha / Shushi, Autonomous Region of Mountains Karabakh, Azerbaijan in May 2022.

D) Emails, voice recordings, video recordings, of any interviews (if any) given by Prof. [name redacted] to Azerbaijani official media, such as but not limited to APA, Azertac, or Report.AZ

E) Emails, class materials, communications (if any) by Prof. [name redacted] concerning the Armenian genocide, it's global recognition and the ongoing [discourses] of Armenophobia in the world..."

6. The University responded on 8 February 2023. It provided some information within the scope of the request, but explained the remaining information was not held.
7. The University completed its internal review on 20 July 2023. It partially upheld the complaint. It stated it now wished to rely on section 12 for part of request, but confirmed the remaining information was not held.

Scope of the case

8. The complainant contacted the Commissioner on 11 June 2023 to complain about the way their request for information had been handled.
9. The Commissioner considers that the scope of his investigation is to consider whether the University has correctly relied upon section 12 to refuse to comply with questions B, C D and E, and whether it holds any additional information within the scope of question A.

Reasons for decision

Section 12 – cost of compliance

10. Section 12(1) of FOIA states that a public authority is not obliged to comply with a request for information if the authority estimates that the cost of complying with the request would exceed the “appropriate limit” as set out in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 (“the Fees Regulations”).
11. Section 12(2) of FOIA provides that a public authority is not obliged to confirm or deny whether requested information is held if it estimates that to do so would incur costs in excess of the “appropriate limit” as set out in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 (“the Fees Regulations”).
12. In other words, if the cost of establishing whether information of the description specified in the request is held would be excessive, the public authority is not required to do so.
13. The appropriate limit is set in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 at £600 for central government, legislative bodies and the armed forces and at £450 for all other public authorities. The appropriate limit for the University is £450.
14. The Fees Regulations also specify that the cost of complying with a request must be calculated at the rate of £25 per hour, meaning that section 12 effectively imposes a time limit of 18 hours for the University

15. The Commissioner's guidance¹ outlines that when a public authority becomes aware that it intends to rely on section 12, it makes sense for it to stop searching for the requested information and inform the complainant. This avoids any further and unnecessary work for the public authority as it does not need to provide any information at all if section 12 is engaged.
16. The University explained that it operated an email archive system called "Cryoserver", this system complies all email correspondence, including deleted messages, exchanged to and from its domain. These emails are store in a secure archive with strict access controls and allows for swift retrieval and more precise searches.
17. The University stated whilst "Cryoserver" allowed for swifter retrievals, a manual review of all correspondences would still be required, to determine if information fell into the scope of the request and whether any information would be exempt from disclosure. It confirmed that these reviews had consumed a significant amount of time and has led to application of section 12.
18. The University explained that its primary investigation centred around emails sent or received by [name redacted] containing references to "Baku Process" or "Baku Forum" within the subject line or email body. This examination spanned from 1 January 2015 to 1 June 2016, the envisaged project timeline. The University concluded that this search yielded a total of 66 emails. However, these emails did not fall into the scope of the request.
19. The University then extended the time frame of the original search to 1 January 2015 to 1 October 2022, which lead to a substantial number of emails being located, totalling 2972 pages. The University then tried to conduct a more targeted search concentrating on emails spanning the period from 1 June 2015 to 1 October 1 2022, containing references to the "Baku Process" or "Baku Forum" involving [name redacted] and representatives of the Ministry of Culture, Azerbaijan. This resulted in a total of 3785 pages of email records being located.
20. The University confirmed that the search resulted in numerous emails which mainly consisted of internal correspondence among staff related to the project, as well as exchanges with third parties. It further stated that the results did not include any correspondence within the scope of the request.

¹ [costs of compliance exceeds appropriate limit.pdf \(ico.org.uk\)](#)

21. The University advised it refined its search a final time, focusing on the period from 1 January 2014 to 31 January 2015, which contained references to the "Baku Process" or "Baku Forum" and included [name redacted] as well as representatives of the Ministry of Culture, Azerbaijan. This search resulted in a total of 962 pages of emails, of which only 4 fell into the scope of the request. These emails were disclosed to the complainant at the time of the request.
22. The University advised to review 962 pages it took in excess of 6 hours, therefore it estimated that to review exactly 900 pages, this would take 6 hours. The University advised that this worked out at 150 pages per hour and to review 3785 pages would take 25.233 hours. The University concluded that this figure was based solely on reviewing the content of the emails and did not factor in any additional time to review any attachments included in the emails.
23. Based on the above, the Commissioner is satisfied that the University was entitled to rely upon section 12(1) and section 12(2).

Section 1(1) – Determining whether information is held

24. Section 1 of FOIA states 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”.

25. The Commissioner has sought to determine whether, on the balance of probabilities, whether the University holds any additional information within the scope of request for question A.
26. The University advised that it does not possess copies of receipts for expenses pertaining to projects dating back to 2015. It further explained that the relevant payments would have been processed in the 2015 financial year and through an older system, which has since been decommissioned. As a result, access to the information held in that system is now limited, and it is not presented in an accessible format
27. The University further advised it was also under no obligation to retain this information, as its record retention schedule states that the requested information is only held for 6 years.

28. The University concluded that as the retention period for this information was 6 years, the disposal date for this information would have been in 2021 and therefore prior to the request.
29. Based on the above information, the Commissioner is satisfied that, on the balance of probabilities, the university does not hold any additional information for question A.

Procedural matters

30. Where a public authority receives a request for information it must communicate any non-exempt information to the requester (section 10) and provide a refusal notice specifying any exemptions being relied upon to withhold information (section 17), within 20 working days.
31. As the University did not respond to the request within 20 working days, it breached section 17 and section 10.
32. Section 16 of FOIA requires a public authority to provide advice and assistance where it is reasonable to do so. The section 45 FOIA Code of Practice states that a public authority's advice and assistance obligation will be triggered when it relies on section 12 to refuse a request. In those circumstances the public authority should either suggest ways in which the requester could refine their request to bring it within the cost limit or explain that the request cannot be meaningfully refined.
33. In this case, the public authority did not suggest any way in which the request could be refined – nor did it state that it considered the request could not be refined.
34. The Commissioner therefore considers that the University failed to its obligation under section 16 of FOIA, it must now provide advice and assistance.

Other matters

35. The Commissioner would like to take this time to remind the university that whilst an internal review is not required by law under FOIA, it is still considered to be good practice. An internal review should be completed with 20 working days, but never more than 40 working days.
36. In the circumstances of this case, the complainant requested their internal review on 10 February 2023, and this was not completed until 20 July 2023. The internal review allowed the University to identify missing information, which fell into the scope of the request.

37. Had the complainant have not requested this review and brought the further complaint to the Commissioner, this information may have been missed and subsequently withheld.

Right of appeal

38. 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

39. 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.
40. 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

Daniel Perry
Senior Case Officer
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Wycliffe House
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