

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 9 January 2017

Public Authority: University of Huddersfield

Address: Queensgate
Huddersfield
HD1 3DH

The Commissioner has since determined that the public authority did not in fact breach section 10(1) FOIA.

Decision (including any steps ordered)

1. The complainant submitted a request to the public authority for information which in his view relates to the University of Huddersfield's conferment of an Honorary Professorship/Fellowship on the Duchess of York.
2. The Commissioner's decision is that the public authority does not hold any information relating to the conferment of an Honorary Professorship/Fellowship on the Duchess of York, since no such award has been conferred.
3. The Commissioner has also found that the public authority complied with its duty to provide advice and assistance within the meaning in section 16 FOIA in its handling of the request.
4. However, she finds the public authority in breach of the procedural requirement in section 10(1) FOIA.
5. No steps are required.

Request and response

6. The complainant submitted a request for information to the public authority on 22 July 2016 in the following terms:

"I would like to request the following information under the Freedom of Information Act.....

Please note that the reference to HRH Prince Andrew should include the Prince himself and or his private office and or anyone specifically acting on his behalf.

Please note that the reference to the Duchess of York should include the Duchess herself and or her private office and or anyone specifically acting on her behalf

Please note that the reference to the University should include any of the following office holders and or their offices and or anyone acting on their behalf.

The relevant office holders are the Vice Chancellor, the Chancellor, the Deputy Vice Chancellor, the pro Vice Chancellors, the University Secretary and any of the Deans.

In addition to the above the reference to the University should also include its legal department; its press and marketing department and any individual and or department known specifically to have played a role in the decision to award the Duchess an honorary Professorship.

Please note that I am only interested in information which relates to the period 22 July 2015 to the present day.

Could you please provide...

1...All correspondence and communications including emails between the University and the Duchess of York which in any way relates to the decision to award her an honorary professorship. Some of this correspondence and communications including emails will pre date the announcement of the honour and some of it will have occurred afterwards. Please note that I am interested in receiving both sides of the correspondence and communications.

2...All correspondence and communications including emails between the University and His Royal Highness Prince Andrew which relate to the decision to award the Duchess an honorary Professorship. Some of this correspondence and communications will have pre dated the announcement of the honour and some of it will have occurred afterwards. Please note that I am interested in receiving both sides of the correspondence and communications.

3...Could you please provide copies of all documentation held by the University which in any way relates to the decision to award the Duchess an honorary Professorship and or subsequent award of the honour.

Some of this correspondence and communications will have pre dated the announcements of the honour and some of it will have occurred afterwards.

4...Is the decision to award the Duchess of York a fellowship connected with any offer of a donation to the University. If the answer is yes can you please name the donor and state the relevant amount. Please provide details irrespective of whether the donation was accepted and or refused. Please provide details even if the donation has not been accepted yet."

7. The public authority issued its response to the request on 22 August 2016. It advised the complainant as follows:

"The University does not hold any information relating to the conferment of an 'Honorary Professorship/fellowship' on the Duchess of York, since no such award has been conferred.

However, in line with our duty to provide advice and assistance under Section 16 of the Freedom of Information Act, we can confirm the following:

1. The Duchess of York was appointed as a Visiting Professor to the University in June 2016.
 2. For the avoidance of doubt, HRH The Duke of York had no input or influence in the decision to appoint the Duchess of York as a Visiting Professor and had no prior notification or involvement with the University in connection with the appointment.
 3. For your information, we attach the press release provided to the Daily Mail on 11 July 2016.
 4. Again, for the avoidance of doubt, the decision to appoint the Duchess of York as a Visiting Professor was not in any way connected to an offer of a donation to the University, either prior, subsequently or in anticipation of any promise of a future donation."
8. On 23 August 2016 the complainant requested an internal review of the public authority's response to his request on the following grounds:

"I do not accept that the University does not hold information relevant to the request.

I note your comments about the nature of the exact title/post awarded to the Duchess.

But it is clear we are both talking about the same appointment.

I note that the University did not seek clarification of the issue before issuing its reply.

I also note your comments about the circumstances surrounding the appointment but these only reinforce the idea that the University holds documentation relevant to the request.

How else could the University provide such clarification if it did not hold paper work about the appointment."

9. On 20 September 2016 the public authority wrote to the complainant with details of the outcome of its internal review. It advised the complainant as follows:

..."(T)he University's handling of the its response to your request was largely in line with its obligations under the Act, but...the University's approach to the provision of advice and assistance was slightly misguided."

"The conferment of an Honorary Professorship/Fellowship and the appointment of a Visiting Professor have a significantly different meaning in the University sector, since both appointments are quite regularly conferred, but in very different ways.

Honorary Award nominations are considered by the University's Honorary Awards Committee and Senate, culminating in approval (or otherwise) by the University Council. Further guidance can be found on our website at <https://www.hud.ac.uk/registry/committees/hac/>

With regard to Visiting Professor appointments, a person is usually proposed either by a Dean of School to the Vice-Chancellor or by the Vice-Chancellor himself. The appointment of a Visiting Professor is then considered by Deputy Vice-Chancellor and the Pro-Vice Chancellors before being approved.

This distinction was clearly highlighted in the press release to [the Daily Mail] (which was attached to our response dated 22 August 2016) although I appreciate that this could have been explained more fully in the University's response.

To address the point you make about the University failing to seek clarification, the Code of Practice (Section 45 of the Act) states that a request for information must adequately specify and describe the information sought by the applicant. Public authorities are entitled to ask for more detail, if needed, to enable them to identify and locate the information sought. The Code does not require a public authority to assist applicants in describing the information more clearly if it can deal with the request as it has been presented. However, in an attempt to

provide a more meaningful and helpful response, the University provided key information about the Duchess of York's Visiting Professorship appointment.....

In light of the above, and given the comments in your email dated 23 August 2016 providing clarity on the information you are seeking, I have therefore instructed the FOI team to process this as a new request with effect from the date of this communication."

10. The complainant wrote back to the public authority on the same day (20 September) and advised it as follows:

"Please do not bother processing the request you refer to below.

I now intend to raise the matter with the Information Commissioner."

Scope of the case

11. The complainant subsequently contacted the Commissioner on 28 September 2016 in order to complain about the public authority's handling of his request. He advised that the grounds for his complaint were as follows:

"I am unhappy with the University's failure to disclose the documentation it clearly holds and with the overall manner in which it has handled the request.

I do not think my use of the term 'honorary professorship' is sufficient excuse for the University to refuse the original request.

I believe the University's approach is contrary to the spirit of the Act and if it really did have doubts about the honour at the centre of the request it should have referred them to me at an earlier occasion.

As I explain in my request for an internal review it should be perfectly clear which honour I am talking about."

12. Although the complainant is of the view that the public authority has withheld information within the scope of his request, that is clearly not yet the public authority's position. The public authority's position is that it does not hold any information within the scope of the request insofar as it is for information relating to the conferment of an 'Honorary Professorship/Fellowship' on the Duchess of York.
13. The other issue which the complainant has raised is whether the public authority's handling of the request is in breach of its obligations under section 16(1) FOIA.

Reasons for decision

Was the public authority entitled to conclude that it did not hold information within the scope of the request?

14. The public authority has been absolutely clear to both the complainant and the Commissioner that there is a significant difference between an Honorary Professorship/Fellowship award and an appointment as a Visiting Professor.
15. It has been absolutely clear that the Duchess of York was appointed as a Visiting Professor.
16. In view of the above, the Commissioner must conclude that the public authority was correct to advise the complainant that it did not hold any information relating to the conferment of an Honorary Professorship/Fellowship on the Duchess of York, since no such award had been conferred.

Was the public authority's handling of the request in breach of its obligations under section 16(1)?

17. Without prejudice to her finding above, the Commissioner has next considered whether the request was handled by the public authority in accordance with its obligations under section 16(1). It is obviously the case that the authority does not hold any information relating to the conferment of an Honorary Professorship/Fellowship award on the Duchess of York. However, was its overall handling of the request reasonable in the sense that the complainant was left in no doubt that the authority could hold information relevant to the Duchess's appointment as a Visiting Professor, and that he would be better off exercising his information access rights in that respect?
18. Section 16 FOIA states:

"Duty to provide advice and assistance"
 - 1) It shall be the duty of a public authority to provide advice and assistance, so far as it would be reasonable to expect the authority to do so, to persons who propose to make, or have made, requests for information to it.
 - 2) Any public authority which, in relation to the provision of advice and assistance in any case, conforms with the code of practice under

section 45 is taken to comply with the duty imposed by subsection (1) in relation to that case."

19. The crux of the complainant's argument is that the public authority was well aware that he was referring to the Duchess's recent appointment as a Visiting Professor given that his request was submitted shortly after her appointment as such.
20. He submitted that several media organisations have quoted a spokesperson for the public authority stating the appointment was in fact an honorary award. He provided links to a number of relevant publications including the following:

<http://news.trust.org/item/20160713124303-4atks>

<https://www.timeshighereducation.com/news/the-week-in-higher-education-21-july-2016>

21. He has also provided the following extract from the public authority's graduation ceremonies web page in support of his view that the authority had referred to the appointment as an honorary award:

"During the ten days of graduation ceremonies, starting yesterday Monday 11 July, almost 3,000 University of Huddersfield students will receive their awards. The University's Chancellor, His Royal Highness The Duke of York, KG, presides over ceremonies at the start of the week, and over subsequent days Naomi Climer, Kaffe Fassett, Michael Mansfield QC, Dr Julie Maxton, Evan Parker, Maggie Philbin, Sally Wainwright and Sarah, Duchess of York will all receive honorary awards."

22. He provided the following link in support of the extract above:

<http://bit.ly/29MOH9G>

23. However, the statement available through this link to the public authority's website actually differs slightly from the extract above, and it does not say that Duchess was going to receive an honorary award. Part of the statement reads as follows:

"DURING the ten days of graduation ceremonies, starting today Monday 11 July, almost 3,000 University of Huddersfield students will receive their awards.

The University's Chancellor, His Royal Highness The Duke of York, KG, presides over ceremonies at the start of the week, and over subsequent days a succession of men and women will receive honorary awards.....

In the evening on the first day, the University will hold its annual Graduation Dinner, where many of the honorary award recipients, past and present, will be in attendance.

At the dinner, Sarah, Duchess of York (pictured right), will join the University's inspiring group of visiting professors when she is conferred with the title of Visiting Professor of Philanthrepreneurship by the University's Vice-Chancellor, Professor Bob Cryan.

The Duchess of York has been involved with University of Huddersfield since 2013 and made her first visit to the campus in 2015. She has been working with students in the School of Art, Design and Architecture over the three year period mainly in connection with her charity work.

During the past year, she has worked with textile design students, visiting the University's innovation centre and later came back to Huddersfield to meet fashion and textile students and attend the students' final show."

24. Furthermore, the public authority has informed the Commissioner that this same statement was previously issued to the Daily Mail Newspaper on 11 July 2016 (on commencement of the graduation ceremonies) in order to clarify that the Duchess had not received an honorary award. The authority also pointed out that the statement was published on its website on commencement of the ceremonies, not the following day as has been suggested in the extract provided by the complainant. To be clear, according to the public authority, the statement was published on Monday 11 July 2016 at 16.53 and has not been amended since.
25. The public authority was correct to point out to the complainant that the Code of Practice issued pursuant to section 45 FOIA¹ entitles a public authority to ask for more detail following a request but only if needed. The Commissioner notes that although clarification was not requested by the public authority, its initial response implicitly acknowledged that the information requested could be relevant to the Duchess's recent appointment as a Visiting Professor. Following the complainant's suggestion that this was the case, the public authority advised him via the outcome of the internal review that the request would be treated as such and a fresh response would be issued accordingly. The Commissioner is satisfied that this approach was reasonable in the

1

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/235286/0033.pdf

circumstances. The complainant had the opportunity, even if he disagreed that an honorary award had not been conferred on the Duchess, to make it explicitly clear to the authority at that stage that he would be happy for the request to be treated as one for information relating to her appointment as a Visiting Professor. Rather, he suggested that the authority ought to have known he was referring to the appointment. However, the public authority clearly does not share his description of the appointment as an honorary award and had in fact issued a statement to that effect to the Daily Mail prior to his request which was also published on the authority's website.

26. The Commissioner recognises that the public authority's original response could have been issued earlier once it had become apparent that the discrepancy in the description of the Duchess's recent appointment at the University would have a significant bearing on the public authority's response to the request. In any event, there was an opportunity following the public authority's original response for the complainant to clearly acknowledge the distinction that the authority was keen to stress between the Duchess's appointment and an honorary award, which in the Commissioner's view was not taken. This also contributed to lengthening the process because it led to an internal review when in fact the request could have been reconsidered as one relating to the Duchess's appointment at that stage. Furthermore, following the internal review, the complainant asked the Commissioner to intervene on the grounds that the public authority had refused to disclose information when technically it did not hold the requested information. The complainant should have allowed the public authority to process his request once the authority was satisfied that the complainant understood that it would be treated as a request for information relating to the Duchess's appointment as a Visiting Professor, rather than the conferment of an honorary award.
27. In view of her findings above, the Commissioner has concluded that the public authority complied with its duty to provide advice and assistance to the complainant within the meaning in section 16 in its handling of the request.

Procedural matters

28. A public authority is required, by virtue of section 10(1) FOIA, to comply with a request for information promptly and in any event no later than 20 working days following the request.
29. Given that its original response to the request was issued by the public authority just slightly over 20 working days following the request, the Commissioner must find the public authority in breach of section 10(1).

Right of appeal

30. 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 123 4504

Fax: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk

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

31. 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.
32. 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

Alexander Ganotis
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SK9 5AF