

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 19 February 2013

Public Authority: Oxford and Cherwell Valley College
Address: Oxford City Centre Campus
Oxpens Road
Oxford
OX1 1SA

Decision (including any steps ordered)

1. The complainant has requested from the Oxford and Cherwell Valley College (the "College") details relating to various courses including number and age breakdown of students on courses, minimum age requirements for courses, equality and diversity information, CCTV footage of students within the College and details as to interviews for A level courses that had taken place during a specified period.
2. The College provided most of the requested information and relied upon exemptions under sections 40(2) of the FOIA in respect of parts 2 and 3 of the request and section 21 of the FOIA in relation to part 4. Having considered the evidence the Commissioner's decision is that the College has met its obligations in respect of parts 2 and 4 and does not require the College to take any further steps. However, in respect of part 3 of the request the Commissioner concluded the information requested is not exempt under section 40(2) of the FOIA and that the information requested should be released. He has therefore ordered the College to provide the complainant with the additional information in relation to age breakdown by course programme.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
 - The College shall disclose to the complainant the information relating to the Oxford and Cherwell Valley College programmes and courses by age, showing age breakdown by course programme so as to include information as to groups 19-24, 25-55 and 55+

4. The public authority 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 7 June 2012, the complainant wrote to the College and requested the following information:
 - (1) Raw data used for compiling a chart displaying "Age groups at OCVC" plus description of the methodology used to compile the data.
 - (2) CCTV footage of specific areas on campus on identified days and during specific time periods.
 - (3) Data related to age breakdown of students by course. To include data for A level and Access to Higher education courses as a minimum.
 - (4) Details as to any minimum age requirements that may have been or are in force.
 - (5) Details as to any limit on the number of students that can be taken on A level courses.
 - (6) Details of the number of students on specifically defined courses for the current and last two academic years.
 - (7) Details of A level interviews conducted between specific dates.
 - (8) Details as to age related considerations as identified by the online Equality and Diversity report.

The above is a summary as the request from the complainant consisted of a lengthy letter. The Commissioner considers this to be a fair reflection of the request and, during the investigation of the case, provided the complainant with a copy of this summary. The complainant has not sought to amend it.

6. On 18 June 2012 the College responded to each of the above and provided some of the requested information. However, as the scope of the complaint has now been defined by the complainant to requests 2, 3 and 4, only the responses by the College to these requests are included below.

(2) The request for CCTV footage was refused on the grounds of Data Protection as individuals would be identified.

(3) This information was provided with a breakdown of students by programme and age being given for the College only. The data was compiled in a format to ensure students on the courses could not be identified. The College also stated that to comply with Data protection principles it had grouped data where any data set was less than 10 to ensure its response did not contravene the principle of identifiability.

(4) The College advised that educational awarding bodies may place restrictions on entry to a course and that it is open to a student to apply for a course where they meet the relevant eligibility criteria.

7. On 27 June 2012 the complainant responded to the information he had been provided with as follows:

(2) He stated that he did not accept that the release of CCTV raised Data Protection concerns.

(3) He made a request for new information arising from the data that he had received to verify whether a 19+ student meant a person between the ages 19-24 rather than a person simply over the age of 19.

(4) He sought clarification about age policies or restrictions that may exist in respect of courses.

The complainant also requested an internal review.

8. On 18 July 2012 the College responded to the original request and further request for clarification by way of internal review as follows:

(2) CCTV footage has been viewed and as individual persons can be identified the College refused to release it on the grounds of Data Protection.

(3) The College advised that it had already provided a breakdown of students by programme and age and did not have any further information to be disclosed.

(4) Confirmation that the College imposes no age restrictions itself but that external bodies may place minimum age, qualification or funding restrictions upon courses.

Scope of the case

9. The complainant contacted the Commissioner on 16 July 2012 to complain about the way the requests for information had been handled.
10. The Commissioner will consider the College's response to points 2, 3 and 4 of the request as these are the matters that the complainant has confirmed as still outstanding.

Reasons for decision

11. Section 1(1) of the 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."

12. In this matter the College advised the complainant that it relied upon section 40 of the FOIA in respect of request 2. In respect of request 3 it provided the information requested to a certain level of detail but advised that to provide any more detailed information would breach the principles of the Data Protection Act 1998 (the "DPA"). In respect of request 4 the College advised it relied upon section 21 of the FOIA as it maintains that the information sought in this request can be found elsewhere.

Section 40

13. Sections 40(2) and 40(3)(a)(i) set out an exemption for information which is the personal data of a third party, the disclosure of which would be in breach of the principles of the DPA. In respect of requests 2 and 3 the College sought to rely on the first principle of the DPA which states that personal data must be processed fairly and lawfully.
14. Personal data is defined under section 1(1) of the DPA as data which relates to a living individual who can be identified from that data, or from that data and other information which is in the possession of the data controller or is likely to come into the possession of the data controller.
15. Therefore the Commissioner has to consider whether the outstanding information is the personal data of third parties. If so, he will then go on

to consider whether the disclosure of the requested information would be unfair and therefore contravene the requirements of the first data protection principle. In doing this the Commissioner will take the following factors into account:

- the consequences of disclosure to the data subject;
- the data subject's reasonable expectations of what would happen to their personal data; and
- the balance between the rights and freedoms of the data subject and the legitimate interests of the public.

Request 2 – CCTV footage.

16. The complainant has requested CCTV footage on 2 out of a possible 3 dates in May and June 2012 at the start of the college day and lunchtime. He requires the footage from cameras located at the main entrance to the College and the main reception desk in the Main Hall of the Oxpens campus.
17. The College has advised that it has checked its CCTV provision and students are identifiable within the footage. As the College is a 16+ College some of the students are under the age of 16 years. Given the time of day the request covers hundreds of students who would potentially be identifiable should the images be released. It regarded the disclosure as an unfair intrusion into the privacy of the students and refused the request.
18. In this matter the requested information consists of CCTV images of students, staff and visitors within the College who are identifiable and accordingly the CCTV images are personal data. The College has explained that the CCTV system is used for the prevention and detection of crime and its policy is to retain the images for 31 days only unless required to do otherwise by the police authorities. It maintains that students, staff, parents and visitors would have a reasonable expectation that their personal data would be protected.
19. Having considered the explanations of the College the Commissioner agrees that the CCTV footage requested is personal data. He agrees that to release the information would be unfair. This is because of the following factors-
 - (a) the reasonable expectations of those recorded that the images obtained would not be used except for matters of security and crime detection.

(b) the potential consequences of disclosure particularly as some students are under 16 years of age.

(c) no legitimate public interest in having the CCTV footage released has been identified and the rights and freedoms of the data subjects have been established.

Request 3 - Data related to age breakdown of students by course

The College's View

20. In response to this request the College provided a breakdown of students by programme and age. It provided details of 365 courses and gave the breakdown of age in categories of under 16, 16-18 and 19+ age groups. In addition it provided a table showing age groups only across the College as, from the range of questions asked by the complainant, it believed the complainant was trying to ascertain the age range of students within the College. These covered a range of groups from under 16 up to over 55 years of age.
21. The College grouped the data to ensure that no data set was less than 10 to ensure that students could not be identified. The College felt this was necessary as some courses had very low numbers and identification could have been possible from the statistics and to ensure compliance with the data protection principles. It was also aware that the complainant had applied to be a student at the College and therefore indirect identification of individual students could be possible where course numbers were less than 10. The complainant was not satisfied with this response and required more specific details as to the age range of students on the programmes. The College advised it was unable to provide further information due to its Data Protection responsibilities.

The Commissioner's View

22. The Commissioner has to consider whether the age of a student is personal data for the purposes of the FOIA. The issue is whether students would be identifiable from the data provided. The College has maintained that in respect of some of the courses the numbers of students are below 10 and, in a few, below 5. The request, however, is for an age breakdown per "program or course". The Commissioner agrees that at course level the degree of granularity of the data provided may enable individuals to be identified if the course numbers were very low and the students crossed a number of age ranges. However the complainant has only sought to clarify age ranges rather than individual ages. He has specifically asked whether "19+ means "19-24" or over 19 and upwards. He refers to the College website which

provides some data using age ranges of under 16, 16-18, 19-24, 25-55 and over 55 years.

23. Consideration also has to be given to the reasonable expectations of the individual in terms of what could happen to their personal data. Such expectations could be shaped by what the College may have told them about what would happen to their personal data; their general expectations of privacy; the nature or content of the information itself; the circumstances in which the personal data was obtained; and whether the individual consented to their personal data being disclosed. The Commissioner is of the view that that the reasonable expectation of students would be that their age is personal and would not be made available to the public.
24. In this matter, however, the Commissioner considers that the release of information would not identify the age of individuals as statistics concerning A level programmes are sufficiently generic whereas as individual course details would be more specific, particularly where course numbers are low. The Commissioner is of the view that information provided as to age breakdown by programme would be unlikely to be sufficiently detailed as to enable identification of individual students
25. In all the circumstances the Commissioner considers that it would be reasonable for further details as to age to be released.

Request 4 – Minimum age restrictions on courses

26. Section 21 of the FOIA provides that a public authority does not have to provide information that is accessible to an applicant by other means.
27. In this case the College has provided information to the complainant on several occasions that it does not operate a minimum age policy for any of its courses but that course entry criteria are set by awarding bodies for certain courses. It advised that a number of awarding bodies put restrictions on the minimum age at which people can sit certain qualifications. It advised the complainant that the information is available on the College's website together with related policies and procedures including the Equality and Diversity report. The information in respect of course requirements was also available on the awarding body websites. The complainant asked for clarification that no additional information existed in relation to any targeted age policy. The College confirmed it had no further information.

Having considered the arguments submitted by both parties the Commissioner is satisfied that the information required in request 4 is

Reference: FS50457176

freely available from the College's website and that no further information is held by the College.

Right of appeal

28. 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: 0116 249 4253

Email: informationtribunal@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

29. 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.
30. 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

Rachael Cragg
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF