

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 17 March 2014

Public Authority: Trinity Hall, Cambridge
Address: Trinity Hall
Trinity Lane
Cambridge
CB2 1TJ

Decision (including any steps ordered)

1. The complainant has requested minutes of the Trinity Hall Association (THA) which have been deposited in the archives and that are up to five years old. Trinity Hall explained that the THA is a separate legal entity to Trinity Hall so the information was not held. The Commissioner's decision is that historical records of the THA which have been archived are held by Trinity Hall and as such the public authority has failed in its obligations under section 1 of the FOIA but as the information is accessible via Trinity Hall's website he does not require any steps to be taken.

Request and response

2. On 25 February 2013, the complainant wrote to Trinity Hall and requested information in the following terms:

"What I would like to see initially is correspondence and the minutes of meetings which Chris is depositing up to five years old."

This was in relation to minutes of the Trinity Hall Association (THA).

3. Trinity Hall responded on 20 March 2013. This response explained that neither Trinity Hall nor THA would be responding to any further correspondence. A further response was then sent on 19 June 2013 that explained with regard to archived records that Trinity Hall did not hold the requested information as THA is a separate legal entity.

4. No internal review was carried out by Trinity Hall despite the Commissioner writing to the public authority to advise them to carry out a review.

Scope of the case

5. The complainant initially contacted the Commissioner on 4 June 2013 to complain about the way her request for information had been handled. After requesting an internal review and receiving no response the complainant contacted the Commissioner again on 31 August 2013 to further complain about Trinity Hall's response to her request.
6. During his correspondence with the complainant the Commissioner established that the complainant's request was intended to seek access to archived records (minutes of meetings and correspondence of the THA) from 2003-2008 and this was clarified when the Commissioner wrote to Trinity Hall about the scope of the request.
7. The Commissioner therefore considers the scope of his investigation to be to determine if minutes of THA that have been archived are held for the purposes of the FOIA by Trinity Hall.

Reasons for decision

Section 1 – is the information held?

8. Section 1(1) of the FOIA states that any person making a request for information is entitled to be informed in writing by the public authority whether it holds the information and if so, to have the information communicated to him.
9. There are two issues in this case – whether information in the archive is still information held by Trinity Hall and whether THA is part of the public authority that is Trinity Hall. If the Commissioner reaches the view that THA is part of Trinity Hall then Trinity Hall will be under a duty to comply with the requirements of section 1 unless the information has been archived and is therefore not considered to be held by Trinity Hall for the purposes of the FOIA as the archive is found to be independent from the public authority.
10. In order to assist in his determination the Commissioner has firstly noted the following information supplied to the complainant by the Trinity Hall Archivist:

"due to the nature of the foundation of the Colleges, the college archives are officially considered to be private and not public like all other Universities ... the Archivist is at liberty to refuse access to records in the College archive ... Administrative records generated as part of the daily functions of a College that eventually end up in the College archive belong to the College but anything donated to a College archive by an external party (whether that be an individual, a College club or society or organisation) will be assessed before being accepted into the archive."

11. This explanation appears to draw a distinction between information submitted to College archives by the Colleges and information which comes from a third party, including clubs or societies. The information in this case comes from THA which is the alumni association of Trinity Hall and would seem to the Commissioner to fall into the category of a club or society whose information would be regarded as coming from an external party for the purposes of consideration for inclusion into the archive.
12. In a further email from the Trinity Hall archivist it was stated that *"the papers of college clubs and societies in effect become archive property."* For this reason, the Commissioner has no reason to dispute the fact that once THA submits documents to the archive, the information is held by the archive but the question still remain as to whether THA is part of the public authority (Trinity Hall) and whether the archive is part of Trinity Hall and therefore the information within it subject to the FOIA.
13. The THA webpages¹ (hosted by Trinity Hall College) explain how the alumni organisation works and contains a disclaimer which clearly sets out that the views of the THA are not those of the College and all content is added at the request of the THA. The rules of the THA² state that it is overseen by a Committee and will hold meetings at least once a year where a representative from the alumni/development office (of the College) will attend except where the meetings are in relation to reserved business of the Committee. These rules then go on to state that:

"the Committee shall regulate its affairs as it deems fit. The Committee has power to deal with all matters of management."

¹ <http://www.trinhall.cam.ac.uk/alumni/associations/trinity-hall-association/>

² <http://www.trinhall.cam.ac.uk/uploads/THA%20rules.pdf>

14. The Commissioner has also turned to paragraph 53 part IV of Schedule 1 of the FOIA which confirms a public authority to be:

"53(1) The governing body of –

(a) an institution within the further education sector,

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

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

(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, or

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

15. Based on the information provided to the Commissioner and having reviewed the constitution of the THA, the Commissioner does not consider that the THA fits any of the above criteria and is not therefore a public authority for the purposes of the FOIA. This is also likely to mean that Trinity Hall who the request was submitted to would not have access to information which is created and held by the THA.
16. This is supported by the submissions Trinity Hall has provided to the Commissioner in which it explained that the THA is a separately constituted and financed association from Trinity Hall. Trinity Hall explained that it does provide secretariat services to the THA but only act on behalf of the association and only under its direction. Trinity Hall has maintained that because of this it does not have access to any of the THAs documents.
17. With no compelling evidence to suggest that Trinity Hall has access to or holds the documents of the THA the Commissioner has next gone on to consider whether historical documents of the THA which have been placed in the archive are held by Trinity Hall and if so, whether they should have been provided in response to the request.
18. Trinity Hall has explained to the Commissioner that the archive is a records repository of Trinity Hall and the collection policy is determined by the Fellow Archivist. Trinity Hall has explained that cataloguing the archive is an ongoing project and the online catalogue is regularly updated.
19. However, in this case Trinity Hall has now explained that the minutes to which the request refers from 2003-2008 are published within Trinity

Hall's annual newsletter publications³ which are available on the Trinity Hall website. Trinity Hall has acknowledged that it failed to deal with the complainant's request as a request for information under the FOIA but has confirmed the archive and Trinity Hall does not hold any THA material for the last five years but the minutes from 2003-2008 are available electronically. Trinity Hall has also confirmed that it does not hold any correspondence and there is no THA correspondence that has been submitted to the archive.

20. The Commissioner has taken into account all the information presented to him and has read through substantial amounts of correspondence between the public authority and the complainant on the subject of THA and the archives. Taking into account all of the above, he has reached the view that Trinity Hall does not hold minutes of the THA which are still part of its recent records i.e. the last five years. However, records of the THA which have been archived can be seen to be held by Trinity Hall for the purposes of the FOIA. This includes the minutes from 2003-2008 which are the subject of this request.
21. The Commissioner notes these minutes are clearly accessible via Trinity Hall's website as they are contained in full within the Trinity Hall newsletters, hosted on the Trinity Hall website. It would appear that the public authority has directed the complainant to this information but this was not made clear to her at the time of the request, nor was any exemption (for example, section 21 of the FOIA – information accessible by other means) cited by the public authority. As such the Commissioner considers that Trinity hall failed in its obligations under section 1 and section 17 of the FOIA but as the information is available online he does not require the public authority to take any steps.

³ <https://www.trinhall.cam.ac.uk/alumni/publications/newsletter/>

Right of appeal

22. 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: GRC@hmcts.gsi.gov.uk

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

23. 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.
24. 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

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