

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 17 January 2023

Public Authority: The Governing Body of University College
Birmingham

Address: Summer Row
Birmingham
B3 1JB

Decision (including any steps ordered)

1. The complainant has requested information regarding the role of the Vice Chancellor and the Director role at Student Services. University College Birmingham (UCB) provided some information (part 1 of the request), confirmed some information was not held (parts 2-4 of the request) and refused to disclose some information due to its "UK GDPR data protection responsibilities" (parts 5-7 of the request). On internal review UCB disclosed the information that had been withheld.
2. The Commissioner considers that UCB has not fully responded to part 1 of the request under section 1(1) FOIA. The Commissioner considers that UCB correctly denied holding the information requested at parts 2-4 of the request under section 1(1)(a) FOIA. UCB breached section 10 FOIA in the handling of this request as it has not fully responded to part 1 of the request, it did not deny holding the information requested at parts 2-4 and it did not provide the information requested at parts 5-7 of the request within the statutory time for compliance.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
 - Provide a response under section 1(1) FOIA to the part of the request for "Can you please let me know when Ray Linforth left the job role of Vice Chancellor..."
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 FOIA and may be dealt with as a contempt of court.

Request and response

5. The complainant made the following information request on 4 October 2021:

"Can you please let me know when Ray Linforth left the job role of Vice Chancellor, was it advertised [part 1] ? Where was it advertised [part 2]? How many applications were made [part 3]? How many interviews were held [part 4]?"

Did [name redacted] go through the application process ? [part 5]

Also does [name redacted] son [name redacted] still work there and did he apply for the Director role at Student services ?" [part 6 and 7]

6. UCB responded on 19 October 2022:

"1. The post was advertised.

2. The University does not hold the information requested. The post you have referred to was advertised in 2019 and to comply with our UK GDPR data protection responsibilities we do not hold information on job advertisements for that long.

3. The University does not hold the information requested. The post you have referred to was advertised in 2019 and to comply with our UK GDPR data protection responsibilities we do not hold information on applicants for that long.

4. The University does not hold the information requested. The post you have referred to was advertised in 2019 and to comply with our UK GDPR data protection responsibilities we do not hold information on interviews for that long.

5. Provision of this information would likely breach the personal data of a third party and is therefore refused under our UK GDPR data protection responsibilities.

6. Provision of this information would likely breach the personal data of a third party and is therefore refused under our UK GDPR data protection responsibilities.

7. Provision of this information would likely breach the personal data of a third party and is therefore refused under our UK GDPR data protection responsibilities."

7. The complainant requested an internal review on 21 October 2022. UCB provided the outcome to its internal review on 16 November 2022. It provided the information originally withheld in relation to parts 5-7 of the request.

Scope of investigation

8. The Commissioner has considered whether the UCB complied with its obligations under section 1(1) FOIA in relation to part 1 of the request, whether it complied with its obligations under section 1(1)(a) in relation to parts 2-4 of the request and he has also considered whether UCB complied with section 10 FOIA in relation to parts 5-7 of the request.

Reasons for decision

9. Section 1(1)(a) FOIA states that:
“(1)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.”
10. In relation to part 1 of the request, whilst UCB confirmed the post was advertised, it did not respond to the part of the request which asks, “Can you please let me know when Ray Linforth left the job role of Vice Chancellor...” As UCB has not responded to this part of the request, it has not complied with its obligations under section 1(1) FOIA.
11. In relation to parts 2-4 of the request, UCB has explained that it no longer holds this information. This is because these requests relate to a post which was advertised in 2019, and the University’s Privacy Notice to candidates for jobs requires it to destroy the information requested six months after a post is advertised, so no information would be retained about where the post was advertised, how many applications were made and how many interviews were held. It said that only information about a successful candidate is retained.

12. Based upon UCB's submissions the Commissioner is satisfied that on the balance of probabilities it does not hold the information requested at parts 2-4 of the request due to its Privacy Notice and retention schedule for this type of information. UCB therefore complied with its obligations under section 1(1)(a) FOIA in relation to parts 2-4 of the request.

Section 10

13. As UCB has not responded fully to part 1 of the request, did not deny holding the information requested at parts 2-4 and did not provide the information held in relation to parts 5-7 of the request within twenty working days, it breached section 10 FOIA.

Right of appeal

14. 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@Justice.gov.uk

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

15. 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.
16. 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.....

Gemma Garvey
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF