

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 25 February 2014

Public Authority: The Governing Body of Pembroke College

Address: Oxford
OX1 1DW

Decision (including any steps ordered)

1. The complainant requested information about Pembroke College's admissions process.
2. The Commissioner found that the College failed to respond to the request within 20 working days, breaching section 10 of FOIA.
3. The Commissioner also found that the College did not hold the requested information and therefore he requires no steps to be taken.

Request and response

4. On 21 March 2013, the complainant wrote to Pembroke College Oxford ('the College') and requested information in the following terms:

"I request Pembroke College provide the following information.

(i) The date on which Pembroke College Admissions Tutor(s) were first informed that the 'UKCAT' would be removed from the admissions process used by Pembroke College?;

(ii) Clarification why the UKCAT was removed from Pembroke College's admissions process; given that Pembroke College has used the Eugenics-based psychometric tool to screen out and rejected those applicants Pembroke College deemed genetically inferior year-on-year since 2006?;

(iii) Copies of the notification/request to Pembroke College stating that the UKCAT should be withdrawn from the College's admissions process;

(iv) Copies of minutes of the meeting Pembroke College Governing Body or any other College committee pertaining to the UKCAT, and a copy of the minutes of the meeting at which Pembroke College (a) approved the withdrawal of the UKCAT from the College's admission process, and (b) approved the introduction of the BMAT in place of the UKCAT.

(v) Copy of the Pembroke College disability equality scheme, and details of the duties of College's equality/diversity committee, and details of the processes operated by the College to ensure that the College's admissions processes comply with the College's Statutory Duty (Equality Act 2010)."

5. The complainant did not receive a response to their request.

Scope of the case

6. The complainant contacted the Commissioner on 4 June 2013 to complain that the College had failed to respond to their information request.
7. The Commissioner wrote to the College and asked it to respond. The case was then closed.
8. The complainant contacted the Commissioner again on 15 August to advise that they still had not heard from the College. The Commissioner re-opened the case and contacted the College on 20 October 2013.
9. On 14 November, the complainant wrote to the Commissioner to advise that the College had provided them with a response but that they were not satisfied with it. The response appeared to refer to separate requests that the complainant had made to the College and did not clearly address their specific request of 21 March 2013.
10. The Commissioner contacted the College again and asked it to respond to the 21 March request specifically, which it did on 17 December 2013. It provided some of the requested information in relation to request (v) and told the complainant that it did not hold the remainder in relation to requests (i) to (iv).
11. The Commissioner focussed his investigation on whether the College holds any further information falling within the scope of the request. He has also considered the College's failure to respond to the request within 20 working days.

Reasons for decision

Section 1 – information not held

12. Section 1 of the FOIA says that a public authority must tell a requester whether or not it holds the information they have requested and, if it does, the authority must communicate that information to them.
13. In this case, the College told the complainant that it does not hold the majority of the requested information. In relation to parts (i) to (iv) of the request, Pembroke College explained to the Commissioner that it is committed to a joint framework with Oxford University's other Colleges. The decision to move from the UKCAT (UK Clinical Aptitude Test) to the BMAT (BioMedical Admissions Test) was therefore taken by the Faculty of Medicine and the University, not the individual College. Pembroke College told the Commissioner that the information covered by parts (i) to (iv) of the request therefore "*does not exist*".
14. In situations where there is some dispute between the amount of information that the public authority has located, and the amount of information that a complainant believes may be held, the Commissioner, following the lead of a number of Information Tribunal decisions, applies the civil standard of the balance of probabilities. In other words, in order to determine such complaints the Commissioner must decide whether, on the balance of probabilities, a public authority holds any information that falls within the scope of the request (or was held at the time of the request).
15. Although it was aware of the University's governance arrangements, detailed in paragraph 13, in preparing its response to the complainant, the College had nonetheless consulted its Senior Tutor, Academic Registrar and Tutorial Fellow in Medicine, all highly experienced individuals. They had checked relevant College records carefully and confirmed that the requested information was not held.
16. The Commissioner has considered the arguments submitted by the complainant but he has not seen anything that would lead to him to conclude that Pembroke College holds the requested information.

Therefore, in view of the steps that the College has taken to search for the information, and without any evidence to the contrary, the Commissioner is satisfied that, on the balance of probabilities, the remainder of the requested information is not held.

17. This decision is in line with the Commissioner's decision in FS50488305, where the complainant had made a similar request to a different Oxford College.

Section 10 – time for compliance

18. Section 10 of the FOIA says that a public authority must comply with section 1 promptly and in any event, within 20 working days. In this case the complainant made their request on 21 March 2013 but the College did not respond until 17 December 2013, and only after the Commissioner had prompted it. The considerable delay in responding to the request amounts to a breach of section 10(1) of the FOIA.

Right of appeal

19. 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

20. 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.
21. 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
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