

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 13 July 2017

Public Authority: Royal Holloway, University of London

Address: Egham Hill
Egham
Surrey
TW20 0EX

Decision (including any steps ordered)

1. The complainant has requested information from Royal Holloway, University of London ("the University") regarding its decision-making process when individuals were nominated to the Academic Board in 2014.
2. The Commissioner's decision is that the University does not hold any recorded information falling within the scope of the request for information. However, it did not deal with the request in accordance with the FOIA in the following ways:
 - It initially failed to confirm or deny whether it held information of the description specified in the request, in accordance with section 1(1)(a) of the FOIA, and
 - It failed to provide a response to the request within the statutory timeframe of 20 working days, in accordance with section 10 of the FOIA.
3. The Commissioner does not require the public authority to take any steps.

Request and response

4. On 17 January 2015, the complainant wrote to the Academic Registrar at the University and requested information in the following terms:

"In an email... of 9 December 2014 about the Academic Board, you use phrases such as "we could appoint". This suggests that other individuals were also directly involved in the decision taken in early November 2014 simply to "appoint" nominated individuals to Elected places on the Academic Board.

a) Were other individuals involved in this decision? If so, please name them.

b) Was advice sought from the College Secretary about the compliance of this action with the College Statutes and Standing Orders?

c) Please forward any correspondence (written or email) between yourself and others in relation to (a) and (b).

d) Did you report this decision to the Academic Board Executive Committee of 24 November 2014? (The Minutes suggest not)."

5. The University did not initially respond. After the complainant reminded the University in December 2015 that a response had not been forthcoming, the University replied on 17 December 2015 that "[it was] ... not going to respond to queries which have already been dealt with openly in Academic Board."

6. On 24 October 2016, after sending a number of reminders to the University, the complainant requested an internal review. The University explained on 7 November 2016 that it did not consider it should carry out an internal review, as it had not responded to the complainant other than *"in the normal course of business,"* but stated that it would now proceed to issue a response under the FOIA.

7. The complainant explained on 7 November 2016 that he still wished the University to carry out an internal review, and the University subsequently responded on 19 December 2016.

8. In its response, the University stated that no recorded information was held with regard to requests b) c) and d). With regard to request a), the University stated that *"the staff who had nominated themselves"* had been involved in verbal discussions but that no recorded information was held.

Scope of the case

9. The complainant contacted the Commissioner on 16 March 2017 to complain about the way his request for information had been handled.
10. During the course of the investigation, the University has corrected its internal review response to request a). It has explained that there is no record of any specific individuals having taken part in discussions regarding the decision to appoint the nominees, and therefore it confirmed that it does not hold any information falling within the scope of this part of the request, nor indeed any other.
11. The Commissioner considers that the scope of the case has been to consider whether the University is correct to say that it does not hold any information falling within the scope of the requests, and to consider whether its response was provided within the statutory time frame.

Reasons for decision

Is information held?

12. Section 1 of the 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.”
13. The Commissioner has sought to determine whether the University has provided the complainant with all of the recorded information falling within the scope of his request which it held at the date of his request.
14. In making this determination, the Commissioner applies the civil test of the balance of probabilities. This test is in line with the approach taken by the Information Rights Tribunal when it has considered whether information is held (and, if so, whether all of the information held has been provided) in cases which it has considered in the past.
15. To investigate this complaint, the Commissioner has asked the University a number of questions about the searches it has made to locate the information which the complainant seeks.

16. The University has explained that the information sought by the complainant concerns the decision to appoint certain nominated persons to vacant posts on the Academic Board in December 2014. An election was announced in October 2014 with the intention of filling two vacancies on the Board, leading to a 'nomination period.' During the nomination period, it was established that there were in fact three further vacancies, making a total of five. At the end of the nomination period, four nominations had been received and a decision was taken by the Academic Registrar that the four nominees would be appointed to fill four out of the five vacancies without the need for an election.
17. The University has carried out searches of the Academic Registrar's incoming and outgoing email boxes for information falling within the scope of the requests. The University explains that it did not limit the time-frame for the search and used the search terms "Academic Board," "Academic Board election" and "election."
18. The University did not locate any recorded information falling within the scope of the complainant's request and confirms that it is not aware of any having been deleted.
19. The Commissioner has observed that request b) could arguably be interpreted to include the possibility that someone other than the Academic Registrar might have sought advice from the College Secretary, and has asked the University whether it considered searching the mailboxes of other individuals. The University has stated that no-one other than the Academic Registrar would have had cause to seek such advice.
20. In any event, with regard to request b), the University has noted that it would not have been relevant to seek advice from the College Secretary regarding compliance with the College Statutes and Standing Orders, since the College Statutes and Standing orders in place at that time did not include procedures to cover additional vacancies arising during the election process.
21. The University has further confirmed that, with regard to request d), the matter would not need to have been reported to the Academic Board Executive Committee since the Committee's stated purpose is "to consider significant items of urgent business arising outside of normal meetings of Academic Board."
22. The Commissioner is satisfied that, on the balance of probabilities, the University does not hold any recorded information falling within the scope of the requests.

Time for compliance

23. As stated, Section 1(1) of the FOIA states that an individual who asks for information is entitled to be informed whether the information is held and, if the information is held, to have that information communicated to him.
24. In addition, section 10 of the FOIA states that a public authority must respond to a request promptly and "not later than the twentieth working day following the date of receipt."
25. The Commissioner notes the University has explained that it did not initially treat the request as a request for information made under the FOIA and sought to deal with it in the normal course of business. However it has since acknowledged that it was a valid request for the purposes of FOIA.
26. From the information provided to the Commissioner in this case, it is evident that the University did not respond to the request within the statutory timeframe of 20 working days. She has therefore found the University to be in breach of section 10 of the FOIA, and in breach of section 1(1)(a) of the FOIA since it did not confirm nor deny whether any relevant information was held within the statutory time for compliance.
27. The Commissioner does not require the University to take any steps.

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: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk

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

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

Alun Johnson
Team Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF