

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 26 November 2021

Public Authority: The Council of the London School of
Economics and Political Science

Address: Houghton Street
London
WC2A 2AE

Decision (including any steps ordered)

1. The complainant has requested the names of the examiners who examined the then-Miss Tsai Ing-wen (now President of Taiwan) for her PhD and the report from her viva. The Council of the London School of Economics and Political Science ("the LSE") denied holding the requested information.
2. The Commissioner's decision is that, on the balance of probabilities, the LSE does not hold the requested information.
3. The Commissioner does not require further steps.

Request and response

4. On 2 May 2021 the complainant requested information of the following description:

"In 2019 I made a Freedom of Information request for President Tsai Ing-wen's PhD thesis examiners' names and date of examination. You kindly informed me that the viva examination was on October 16, 1983. However, you declined to answer my question about the examiner names and dates of signed approval referring me to the University of London. I have been unsuccessful in obtaining this information from the University thus I return to you for an answer. I also request a copy of the signed viva report."

5. On 4 May 2021, the LSE responded. It denied holding the requested information.

6. The complainant requested an internal review on the same day. The LSE sent the outcome of its internal review on 26 May 2021. It upheld its original position.

Scope of the case

7. The complainant contacted the Commissioner on 28 May 2021 to complain about the way his request for information had been handled.
8. The Commissioner contacted the complainant on 8 November 2021. She pointed out that, at the time of the exam, the LSE did not have its own degree-awarding powers and therefore any degrees were conferred on LSE students by the University of London. She noted that she had already confirmed that the University of London held the information in question and that, even if the LSE also held the same information, it would be exempt from disclosure. She therefore invited the complainant to withdraw his request.
9. The complainant refused to withdraw his request and argued that the LSE's denial conflicted with its public statements to the effect that President Tsai's degree had been correctly awarded.
10. The Commissioner considers that the scope of her investigation is to determine whether the LSE holds the names of the examiners and the viva report.

Reasons for decision

Section 1 (Held/Not Held)

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 cases where a dispute arises over the extent of the recorded information that was held by a public authority at the time of a request, the Commissioner will consider the complainant's evidence and arguments. She will also consider the actions taken by the authority to check that the information is not held and any other reasons offered by

the public authority to explain why the information is not held. Finally, she will consider any reason why it is inherently likely or unlikely that information is not held.

13. For clarity, the Commissioner is not expected to prove categorically whether the information is held, she is only required to make a judgement on whether the information is held on the civil standard of the balance of probabilities.
14. The Commissioner has issued numerous decision notices concerning President Tsai's PhD award.¹ These decisions record some of the background and controversies about the degree and the Commissioner considers it would serve no useful purpose to repeat them here.
15. The LSE reiterated in its response that, in 1984 (when the degree was awarded) all LSE students received their degrees from the University of London as it did not have the power itself to confer degrees. The University of London was responsible for arranging and invigilating any examinations and the LSE would receive a notification confirming that a particular student had been awarded a degree.
16. The LSE accepted that it did still retain President Tsai's student record, but that that record only dealt with her activities at the LSE – and this did not include details of her final examination or viva.
17. The student record had been examined and no definitive record of the examiners had been found. Whilst one document indicated that a particular individual might have been an examiner, the LSE had no way of cross-checking whether that individual had in fact performed that role – and the LSE considered it unlikely that they would have done so.
18. The LSE was satisfied that no relevant information had been destroyed and that the reason that it did not hold the information now was that it had never held the information – because the information was held by the University of London. It had been able to confirm the authenticity of the degree based on the copy of the notification it had received from the

¹ <https://ico.org.uk/media/action-weve-taken/decision-notices/2020/2617860/fs50908339.pdf>; <https://ico.org.uk/media/action-weve-taken/decision-notices/2020/2618008/fs50898869.pdf>; <https://ico.org.uk/media/action-weve-taken/decision-notices/2020/2618167/ic-43980-j8z7.pdf>; <https://ico.org.uk/media/action-weve-taken/decision-notices/2020/2618317/ic-40405-s7l3.pdf>; <https://ico.org.uk/media/action-weve-taken/decision-notices/2021/4018304/ic-83994-c7z4.pdf>

University of London, in 1984, confirming that President Tsai had been awarded a PhD.

The Commissioner's view

19. On the balance of probabilities, the Commissioner is satisfied that the LSE does not hold the requested information.
20. The arrangements between the LSE and the University of London were different in 1984 to how they are today. As the degree-awarding body, it is logical to consider that it would be the University that has the records pertaining to President Tsai's examination – and the Commissioner has already established that these records are, as a matter of fact, held by the University of London.
21. The LSE has searched its records and has been unable to locate the information in question. In the Commissioner's view, the most likely explanation is that the LSE has never held this information. She is satisfied that none of the LSE's statements, to which her attention have been drawn, conflict with a denial that this particular information is held.
22. The LSE has drawn the Commissioner's attention to a document which might indicate who one of the examiners was. The LSE is not required to confirm whether this individual did in fact act as an examiner (unless the information is already in the public domain – which it is not) as this would require it to acquire new information that it does not already possess. Even if the LSE were able to confirm that this individual was an examiner, as the Commissioner ruled in decision notice FS50908339, the LSE would be entitled to rely on section 40 of the FOIA to withhold the name anyway. However, as the LSE does not hold the information in the first place, no exemption is necessary.
23. The Commissioner is therefore satisfied that the LSE has complied with its obligations under section 1(1) of the FOIA as it correctly informed the complainant that it did not hold the requested information.

Right of appeal

24. 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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

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

25. 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.
26. 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

Roger Cawthorne
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