

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 29 November 2012

Public Authority: The United Learning Trust
Address: Fairline House
Nene Valley Business Park
Oundle
Peterborough
PE8 4HN

Decision (including any steps)

1. The complainant has requested information about the employment packages of the public authority's chief executive and senior management team, as well as other information about budgets and consultancy fees. The public authority provided some information but refused to provide the employment-related information as it said it did not hold this, the staff being paid by a different party that is not subject to the FOIA. The Information Commissioner's decision is that the public authority does not hold the information.

Background

2. Some background information about the United Learning Trust can be found online¹.

Request and response

3. On 20 February 2012, the complainant wrote to the public authority and requested information in the following terms:
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¹ <http://unitedlearning.org.uk/>

"I would be grateful if you could provide me with the following information about ULT. Could you provide details of the employment package of the chief executive - pay; pension contribution and any other remuneration plus expenses (could you provide details of what expenses were provided) for the last three years; 2012, 2011 and 2010. Details of how much has been spent on consultants in those years. Details of the amount of the schools' budgets retained centrally - the actual amount and the proportion of total schools' budgets. Details of the employment packages of the other members of the senior management team of ULT".

4. The public authority responded on 19 March 2012. It stated that:

"Our Chief Executive and Senior Management Team are paid through another charity that is not subject to the Freedom of Information Act and we are therefore unable to provide the information in relation to pay, pension contribution, other remuneration or expenses that you have requested".

It provided some other information and required clarification about part of the request.

5. The complainant asked for an internal review on 19 March 2012. Following this the public authority wrote to the complainant on 11 May 2012. It provided further information but maintained its position concerning employment packages.

Scope of the case

6. On 31 May 2012 the complainant contacted the Information Commissioner to complain about the way her request for information had been handled. She stated:

"The academy company, United Learning Trust, has refused to give me information about the pay and employment packages of its senior management team. These salaries are paid from public money. The ULT maintains it does not have to provide the information because the management team is paid by another company, that is not covered by FOI".

7. The Information Commissioner confirmed with the complainant that she wished him to consider whether or not the employment-related data is covered by the FOIA.

Reasons for decision

Substantive procedural breaches

8. Section 1(1) provides 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."*

9. The Commissioner considered whether the information falling within the scope of the complainant's requests was held by the public authority.

10. Section 3(2) of the FOIA states that:

*"For the purposes of this Act, information is held by a public authority if -
(a) it is held by the authority, otherwise than on behalf of another person, or
(b) it is held by another person on behalf of the authority."*

11. The public authority was of the view that it did not hold the requested information. It explained to the complainant that this was because its senior staff are paid by the United Church Schools Trust (the "UCST"). It advised him that although it is publicly funded itself and therefore subject to the FOIA, the UCST, which is a separate charity, is not publicly funded and not subject to the FOIA.

12. The Information Commissioner asked the public authority to provide him with an example of the employment contract of one of the senior members of staff caught within the scope of the request. An example was provided, although it was stipulated that this was actually held by UCST and not the public authority itself. From this he was able to ascertain that the contract stipulates that the employee will be employed by the USCT and the USCT is responsible for payment of salary, expenses, pension, etc.

13. The Information Commissioner also asked for confirmation that the public authority made no payment to the staff itself and that they were not therefore paid for out of public funds. It confirmed: *"You are correct and the services agreement provided to you does show that these costs are met by UCST"*.

14. Consequently the Information Commissioner is satisfied that the public authority does not hold the requested information and it responded to the request appropriately.

Right of appeal

15. 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: informationtribunal@hmcts.gsi.gov.uk
Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

16. 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.
17. 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

Jon Manners
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Wycliffe House
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Wilmslow
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