

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 28 September 2022

Public Authority: University Council
Address: University of Manchester
Oxford Road
Manchester
M13 9PL

Decision (including any steps ordered)

1. The complainant has requested equality impact assessments for specific policies.
2. The University confirmed that it does not hold any information that falls within the scope of the request.
3. The Commissioner is satisfied that, on the balance of probabilities, the University does not hold any information that falls within the scope of the request.
4. The Commissioner is also satisfied that the University interpreted the request correctly and complied with its obligations according to section 16 (duty to provide advice and assistance) of FOIA.
5. The Commissioner does not require the University to take any steps.

Request and response

6. On 2 September 2021 the complainant wrote to the University of Manchester ('the University') and requested the following information:

"The Equality Impact Assessment for version 1, version 2, version 3, version 4, version 5, version 6, version 7 and any subsequent versions and any amended versions of the University of Manchester Redeployment Policy.

The Equality Impact Assessment for version 1, version 2, version 3 and any subsequent versions and any amended versions of the University of Manchester Pay Protection Policy.

The Equality Impact Assessment for version 1 and any subsequent versions and any amended versions of the University of Manchester Security of Employment Policy.

The Equality Impact Assessment for version 1, version 2, version 3, version 4, version 5 and any subsequent versions and any amended versions of the University of Manchester Policy & Procedure on Contracts of Employment.

On which dates in the past 20 years have Equality Impact Assessments been carried out on the University of Manchester Redeployment Policy, University of Manchester Pay Protection Policy, University of Manchester Security of Employment Policy and University of Manchester Policy & Procedure on Contracts of Employment?

Which person is responsible for carrying out Equality Impact Assessments on the University of Manchester Redeployment Policy, University of Manchester Pay Protection Policy, University of Manchester Security of Employment Policy and University of Manchester Policy & Procedure on Contracts of Employment?

When will the next Equality Impact Assessment on the University of Manchester Redeployment Policy, University of Manchester Pay Protection Policy, University of Manchester Security of Employment Policy and University of Manchester Policy & Procedure on Contracts of Employment be carried out?

When will the next review of the University of Manchester Redeployment Policy, University of Manchester Pay Protection Policy, University of Manchester Security of Employment Policy and University of Manchester Policy & Procedure on Contracts of Employment be carried out?

What are the systems, procedures, rules, regulations or similar which ensure that a University of Manchester policy with "Equality impact outcome: High" will go through an Equality Impact Assessment when reviewed?

What assessments, reviews, appraisals or similar have been carried out in the past 20 years on any version and any amended versions of following four policies: the University of Manchester Redeployment Policy, University of Manchester Pay Protection Policy, University of Manchester Security of Employment Policy and University of Manchester Policy & Procedure on Contracts of Employment?"

7. The University responded on 29 September 2021. It denied holding any equality impact assessments ('EIA') for the named policies, stating 'We have no EIAs for any of the named policies. Our approach to such EIAs is under review.'
8. It also explained that 'Dates of past reviews and scheduled reviews are on our website under each individual policy.'
9. The complainant requested an internal review on 4 October 2021.
10. The University provided the outcome to its internal review on 27 October 2021. It upheld its original position.

Scope of the case

Section 1 – general right of access to information held by public authorities

11. Section 1 of 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 this case, the complainant is concerned that the University holds the EIAs in question, even though it says it does not. The complainant believes they have evidence, in the form of correspondence from the University, which confirms the existence of the EIAs.
13. In cases where a dispute arises over the recorded information held by a public authority at the time of a request, the Commissioner, following the outcome of a number of First-tier Tribunal decisions, applies the civil standard of the balance of probabilities. This means that the Commissioner will determine whether it is likely, or unlikely, that the public authority held information relevant to the complainant's request at the time that the request was received.
14. In order to reach his determination, the Commissioner asked the University to provide detailed explanations as to why the requested information was not held at the time that the request was received. The Commissioner also asked the University to explain the searches it had undertaken to locate any information that would fall within the scope of the request and to explain why these searches would have been likely to locate all of the information in scope.

15. The Commissioner also asked the University to address the evidence that the complainant provided.

The University's position

16. The complainant expressed concern to the Commissioner that the University had limited its searches for the requested information to its HR department. The complainant is concerned that EIAs would be held by other departments.
17. However, the University has confirmed that 'We are not aware of any EIAs being completed or held outside of the HR or EDI (Equality, Diversity, and Inclusion) department.' The University explained that there is a specific team that carry out EIAs, and this team would sit within either the HR or EDI departments.
18. The University explained that, when this request was originally dealt with, searches for the requested information were carried out by the EIA team and no relevant information was found. The University explained that the search term used was 'EIA' and then the name of the relevant policy.
19. The University also explained that 'Searches were carried out on the systems that hold the Universities policies'. The University is satisfied that, if an EIA for a specific policy existed, it would be held by either the EIA team or on the aforementioned system. Therefore, the University is satisfied that the requested information is not held.
20. The University explained to the Commissioner that, whilst it is confident it does not hold the requested information, it does, during any consultation or review of a policy, consider the impact that various changes might have on different employee groups. However, the University has clarified that this consideration won't necessarily be formally documented as an EIA document.
21. The University also explained that, whilst it might classify the impact of a various policy change as 'high', as some of the complainant's evidence suggests, this does not necessarily mean that an EIA will be conducted for said policy.
22. Finally, the University believes that the evidence the complainant has provided does not prove it holds the requested information.
23. The Commissioner notes that this evidence does discuss the development, and the rolling out, of EIAs across the University. The Commissioner also notes that the evidence points to the fact that EIAs should be completed for at least one of the named policies.

The Commissioner's view

24. The Commissioner acknowledges and understands the complainant's concerns. They are in possession of correspondence which indicates that the EIA process should have moved forward within the University and at a greater speed. However, it is not the Commissioner's role to comment on what information should be held by a public authority. It is only the Commissioner's role to decide, on the balance of probabilities, if the requested information was held at the time of the request.
25. Furthermore, at the University there is clearly a distinction between EIAs as formal documents and the constant consideration that the University gives to the impact that any policy changes might have on different employee groups.
26. Ultimately, the Commissioner is satisfied that the University has conducted logical, targeted and relevant searches for the information requested and the Commissioner is satisfied that, on the balance of probabilities, the University does not hold any formal EIAs for the policies named in the request.

Section 16 – advice and assistance

27. Section 16 of FOIA states:

“(1) It shall be the duty of a public authority to provide advice and assistance, so far as it would be reasonable to expect the authority to do so, to persons who propose to make, or have made, requests for information to it.

(2) Any public authority which, in relation to the provision of advice or assistance in any case, conforms with the code of practice under section 45 is to be taken to comply with the duty imposed by subsection (1) in relation to that case.”

28. What this means is, if a public authority complies with the requirements of the section 45 Code of Practice,¹ it will have also complied with section 16.
29. Section 2.8 of the Code of Practice states 'There may be occasions when a request is not clear enough to adequately describe the information sought by the applicant in such a way that the public authority can

¹ [CoP FOI Code of Practice - Minor Amendments 20180926 .pdf](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/684222/CoP_FOI_Code_of_Practice_-_Minor_Amendments_20180926_.pdf)
(publishing.service.gov.uk)

conduct a search for it. In these cases, public authorities may ask for more detail to enable them to identify the information sought.'

30. The last part of the complainant's request reads "What assessments, reviews, appraisals or similar have been carried out in the past 20 years on any version and any amended versions" of the policies in question.
31. When they contacted the Commissioner, the complainant was concerned that this aspect of the request had not been addressed by the University. To reiterate, the University directed the complainant to its website where the 'dates of past reviews and scheduled reviews' could be found under each individual policy.
32. The Commissioner has considered the University's interpretation of this part of the request and whether it presents an objective reading of the request. If it doesn't, the University should have asked the complainant for clarity on this part of their request.
33. Looking at an example of a policy on the University's website, the Commissioner can see a 'document control box' at the bottom which provides a version history and next review date for that policy. This information fits the complainant's request as outlined in paragraph 30 and therefore the Commissioner considers the University's interpretation of this part of the request to be a reasonable one.
34. The Commissioner notes that the complainant did not request any further details of any such assessments, reviews or appraisals. If they had, the University has explained to the Commissioner that 'each policy within the University may be reviewed at any time and changes made for a number of reasons, however the changes that were made and reasons for such changes are not held for each of these policies.'
35. The University has explained that, in order to provide details of the assessments, reviewal appraisals or similar that have been carried out in the last 20 years, it would 'need to find all versions of each of the named policies and compare each policy to determine what changes were made falls within the scope of the complainant's request.

Right of appeal

36. 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

37. 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.
38. 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

Alice Gradwell
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
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SK9 5AF