

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 19 April 2023

Public Authority: The Governing Body of the University of Southampton

Address: Highfield
Southampton SO17 1BJ

Decision (including any steps ordered)

1. The complainant has requested information associated with a particular visit to the University of Southampton in 2018. The University of Southampton ('the University') applied section 21 of FOIA to the information it holds as that information is already accessible to the complainant. Its position is that it holds no other relevant information and the Commissioner's decision is that, on the balance of probabilities, that is the case. He finds that the University has complied with section 1(1) of FOIA, and it is not necessary for it to take any corrective steps.

Request and response

2. The complainant made the following information request to the University on 20 June 2022:

"I request under the Freedom of Information Act all information held by Southampton Office relating to the visit to the University of Southampton on 15 March 2018 by staff of the Knowledge Management Department, Hanslope Park, Buckinghamshire, concerning the diaries and letters of the 1st Earl and Countess Mountbatten."
3. In its response dated 18 July 2022 the University advised that the relevant information it holds is exempt under section 21 of FOIA as it is already reasonably accessible to the complainant. This is because the information had been submitted as part of an appeal to the First-tier

Tribunal (Information Rights) ('the FTT') and the complainant was party to those proceedings.

4. The complainant expressed dissatisfaction with the response in correspondence to the University dated 19 July 2022. Having not received a response the complainant wrote again to the University on 20 August 2022. The University considered this later correspondence as a request for an internal review, and also took account of the complainant's previous correspondence at that point.
5. Following the Commissioner's intervention the University provided the complainant with an internal review on 14 October 2022. It advised the Commissioner that it had considered the request for a review to be the complainant's 20 August 2022 correspondence.
6. The Commissioner reminds the University that a public authority should treat any expression of dissatisfaction from an applicant about a response they have received as a request for an internal review. As such, it is the Commissioner's view that the complainant's correspondence of 19 July 2022 was, in effect, the request for a review. The University should therefore have provided its review within a maximum of 40 working days ie by mid-September.
7. In its internal review the University noted that the complainant did not dispute the University's reliance on section 21 but considered that it held other information relevant to their request. The University confirmed that it did not hold any further information.

Reasons for decision

8. This reasoning considers whether the University holds any other information that falls within scope of the complainant's request.
9. Under section 1(1) of FOIA a public authority is obliged (a) to confirm whether it holds information that an applicant has requested and (b) to communicate the information if it is held and is not exempt from disclosure.
10. In its internal review, the University said it had carried out searches for relevant information. It confirmed it does not hold any information other than the information the complainant already has sight of as a result of the FTT appeal.
11. The complainant told the Commissioner that a Professor at the University (who they named) would have recorded the visit in question and/or reported it to colleagues at the University (including the in-house lawyers). The visit would have been recorded in documents (including

emails, memos, file notes) additional to those disclosed in the FTI proceedings. The complainant considers that the visit by two senior "FCO" officials was high-powered, and exceptional. It would be a preliminary to the officials' anticipated detailed and lengthy review of the material. The complainant expected reports [to be generated] by the in-house lawyers upwards to the CEO and/or Vice-Chancellor. (By "FCO" officials the Commissioner understands the complainant to mean officials from the Foreign, Commonwealth and Development Office - FCDO.)

12. The complainant also told the Commissioner that they would have expected the Professor to have made notes of the meeting or reported it to colleagues. The Professor or another member of University staff may also have communicated with the Mountbatten family or the trustees about the visit. The Commissioner raised that point with the University.
13. In an initial submission to the Commissioner, the University first explained that the complainant was a party to Tribunal proceedings where there was an open Tribunal 'bundle' [of material]. The University says it first considered this bundle to understand if the information was potentially already available to the complainant by other means.
14. The University went on to explain that within the context of the request, there were three key individuals within the University who had knowledge of the requested information and/or its context; one was the Case Handler and another at the time was the Head of Legal and overseeing Information Governance compliance. The "others" included an academic who has extensive knowledge of the archive and whose expertise/subject matter knowledge the University fully utilised. The Commissioner understands that the third key individual was this academic.
15. The University then says that "The other two key individuals were contacted" by which the Commissioner understands the University to mean the Case Handler and the Head of Legal and that these individuals conducted further searches amongst paper, electronic and archive information to cross reference any other information with the disclosure already made in the Tribunal proceedings. The University says that these searches would have allowed it to identify if it could retrieve any information not already identified. But as it advised the complainant, the only information it identified was that already available to them.
16. The University's submission goes on to say that it considered electronic and archive records and that it used "search terms" on email inboxes. The University also consulted key staff as discussed above. The University said that, "Search terms were used to identify key components relating to the request, but also broader terms were used to try and identify any additional information held." As discussed, one of the key individuals within the organisation with extensive knowledge of

the matter was able to access archive resources and consider personal and networked resources to try and identify information/additional information.

17. Regarding whether there was any communication with the Mountbatten family or trustees, the University told the Commissioner that it had noted the complainant's view but that it undertaken relevant searches and, "had the scope of the request in its upmost consideration." The University confirmed that it had searched for all relevant information and the only information identified would have been that which was already available to the complainant in the Tribunal bundle, which they already had access to.
18. The Commissioner asked the University to provide more detail on the search terms it had used to search for relevant information. In response, the University advised that the search terms "concerned the wording/scope of the original request." It said that it used search terms to identify key components relating to the request, "but also broader terms were used to try and identify any additional information held."
19. Again, the University has broadly discussed the search terms it used but has failed to advise what the specific search terms it used were. Taking account of the University's advice that it used search terms that "concerned the wording/scope of the request", the Commissioner will assume it used search terms such as 'Mountbatten', 'FCO/FCDO', 'visit' and/or '15 March 2018'. On this basis, the Commissioner will accept that the University carried out adequate searches of electronic records for information relevant to the request.
20. In addition, along with other key staff, the University also consulted with the relevant academic who has a thorough knowledge of the context of the request and who has searched paper records and archive records.
21. The Commissioner considers that the searches and consultations that the University has carried out have been satisfactory. He has also taken account of the fact that the visit in question occurred four years before the request was submitted and **if** any other relevant information had once been held it **may** have been destroyed in line with a retention schedule. The complainant has a view about what information would have been recorded, how it would have been recorded and why it would have been recorded. However, that appears to be conjecture or expectation by the complainant rather than known facts.
22. Having considered all the circumstances and both the complainant's and the University's positions, the Commissioner's decision is that, on the balance of probabilities the University holds no further information that is relevant to the complainant's request and has complied with section 1(1) of FOIA.

Right of appeal

23. 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

24. 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.
25. 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

Cressida Woodall
Senior Case Officer`
Information Commissioner's Office
Wycliffe House
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