

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 26 September 2017

Public Authority: Cambridge International Examinations
(University of Cambridge)

Address: 1 Hills Road
Cambridge
CB1 2EU

Decision (including any steps ordered)

1. The complainant has requested information about the suspension or cancellation of contracts with examiners. The Cambridge International Examinations (CIE) is the brand name of the University of Cambridge Local Examinations Syndicate, a department of the University of Cambridge. CIE provided some information but refused to provide the remainder of the request under section 12(1) of the FOIA, as it would exceed the appropriate cost and time limit to do so.
2. The Commissioner's decision is that CIE is not obliged to comply with the remaining parts of the request under section 12(1). The CIA did not meet its obligation under section 16 to offer advice and assistance. The Commissioner does not require the public authority to take any steps.

Request and response

3. On 15 May 2017 the complainant made the following request for information under the FOIA:

'Please note that I am only interested in information which relates to the period 15 May 2016 to the present day.

Please do NOT identify any individual examiners and please feel free to redact their personal details from any documentation provided.

Q1...During the aforementioned period has the organisation found it necessary to dismiss, suspend, discipline or issue a written/verbal warning to any of its examiners.

Q2...If the answer is yes can you please provide the following details.

In the case of each examiner dismissed suspended, disciplined or warned can you please specify what action was taken ie where they sacked suspended disciplined or issued with a written warning. In the case of examiner can you explain why the action was taken against them? In the case of each examiner dismissed, suspended disciplined or warned can you specify their area of responsibility including the subject and the relevant level of exam. In the case of each examiner can you state when the relevant action was taken.

Q3...If the action was prompted by a written complaint from a colleague and or school and or pupil and or teacher and or parents can you please provide a copy of that written complaint including emails. Please redact the personal details of all complainants from the documents provided.

Q4...If the complaint related to a particular exam paper and or question (s) can you please supply a copy of that paper and or question (s).'

4. On 14 June 2017 CIE responded to Q1 that it had cut short the contracts of 83 examiners from May 2016 to May 2017 as '*in most cases we did this where an examiner fell short of our standards on accuracy*'. CIE refused to provide the remaining requested information concerning the detail of the individual reasons (Q2, Q3 and Q4) citing Section 12 of FOIA as it estimated that the cost of determining whether it held the information would exceed the cost threshold of £450.
5. On 16 June 2017 the complainant requested an internal review. CIE sent the outcome of its internal review on 4 July 2017 upholding its original position.

Scope of the case

6. On 4 July 2017, the complainant contacted the Information Commissioner to complain about the way his request for information had been handled.
7. The Commissioner's investigation has focussed on whether CIE correctly applied section 12 to the remaining 3 parts of the request. She has also considered whether CIE met its obligation to offer advice and assistance, under section 16.

Reasons for decision

Section 12 – cost exceeds the appropriate limit

8. Section 12 of the FOIA allows a public authority to refuse to deal with a request where it estimates that it would exceed the appropriate limit to:
 - either comply with the request in its entirety, or
 - confirm or deny whether the requested information is held.
9. The estimate must be reasonable in the circumstances of the case. The appropriate limit is currently £600 for central government departments and £450 for all other public authorities. Public authorities can charge a maximum of £25 per hour to undertake work to comply with a request; 18 hours work in accordance with the appropriate limit of £450 set out above, which is the limit applicable to CIE. If an authority estimates that complying with a request may cost more than the cost limit, it can consider the time taken to:
 - (a) determine whether it holds the information
 - (b) locate the information, or a document which may contain the information
 - (c) retrieve the information, or a document which may contain the information, and
 - (d) extract the information from a document containing it.
10. Where a public authority claims that section 12 of the FOIA is engaged it should, *where reasonable*, provide advice and assistance to help the requester refine the request so that it can be dealt with under the appropriate limit, in line with section 16 of the FOIA.
11. In its submission to the Commissioner, CIE explained that it had made an estimate based on a 10% sample which related only to Q2 and Q3 of the request. The sample of the data estimated that it would take around 30 minutes per examiner to complete the task. As this would have exceeded the limit, CIE did not try to estimate how much additional time would be required for Q4.
12. The CIE estimate was based on the following calculation:

'1. Review procedures focusing on where the information should be stored/logged, finding documents on shared drive and reading through to find the documentation audit trail (1 hour).

- 2. Meeting with the panels' team leaders to find further information regarding this and meeting with relevant operations team to have access to folders and see where documents are stored (1 hour)*
 - 3. Searching document storage on shared folders (6 hours)*
 - 4. For those not found in these folders speaking directly with the Product Managers who were responsible for creating the letters and then accessing where they were stored. (8 hours)*
 - 5. Creating a separate folder to log copies of these letters within Assessor Development (1 hour)*
 - 6. Reading and sifting the letters and any other associated materials, creating a spreadsheet and copying over the reasons stated in the letters. (24 hours)'*
13. The complainant has stated his understanding that the information is located in a centralised and identifiable form as CIE was able to provide the relevant number of examiners.
 14. However, the Commissioner notes that in the internal review response to the complainant, CIE stated that the details requested for Q2-Q4 are '*held in various locations and records*'. CIE also advised the complainant in the initial response that it would be required to
'locate the letter sent by the relevant manager to the examiner effectively stopping that examiner from marking further scripts. For security reasons the letters are held on part of our system which has limited access and are stored in separate areas depending on the syllabus.'
 15. Given the specific and detailed information requested by the complainant (action taken, area of responsibility including subject and level of exam, why and when the action was taken, if prompted by a complaint and if related to a particular exam paper/question) the Commissioner is prepared to accept that the CIE would take more than the 18 hour limit to respond to the request. She is therefore satisfied that CIE is correct to apply section 12(1) to the request.

Section 16(1) – The duty to provide advice and assistance

16. Section 16(1) of the FOIA provides that a public authority should give advice and assistance to any person making an information request. Section 16(2) clarifies that, providing an authority conforms to the recommendations as to good practice contained within the section 45 code of practice in providing advice and assistance, it will have complied with section 16(1).

17. The Commissioner notes that CIE did not offer the complainant any advice or assistance in refining the request.
18. In its submission to the Commissioner, CIE recognised that Section 16 imposes a duty of advice and assistance but stated that *'it is not clear to me how we could have helped any further... it is very important to remember that the second, third and fourth parts of the request are all inter-connected.'*
19. The Commissioner considers that the CIE's failure to provide the complainant with an opportunity to refine the request is sufficient for her to conclude that it has not met its section 16 duty.

Right of appeal

20. 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

21. 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.
22. 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

Andrew White
Group Manager
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Cheshire
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