

Decision Notice 099/2021

Student placement details

Applicant: The Applicant

Public authority: Perth College

Case Ref: 202000837



Scottish Information
Commissioner

Summary

The College was asked for details of student placements as part of the Applied Life Sciences subject network.

During the investigation, the College provided additional information and notified the Applicant that it did not hold some of the information they had asked for.

The Commissioner investigated and found that the College failed to identify and disclose all of the relevant information it held and notify the Applicant which information it did not hold at the time of the request.

Relevant statutory provisions

Freedom of Information (Scotland) Act 2002 (FOISA) sections 1(1) and (4) (General entitlement); 17(1) (Notice that information is not held)

The full text of each of the statutory provisions cited above is reproduced in Appendix 1 to this decision. The Appendix forms part of this decision.

Background

1. On 3 June 2020, the Applicant made a request for information to Perth College (the College). The information requested was details of student placements as part of their courses in the Applied Life Studies subject network on one or more of the following courses:
 - BSc (Hons.) Integrative Healthcare
 - BSc Oral Health Science
 - Diploma Person-Centred Counselling and Psychotherapy
 - HNC Childhood Practice
 - HNC Social Services
 - HNC Care and Administrative Practice
2. Citing the University of the Highlands and Islands (UHI) Student Placement Policy and Guidance document, the Applicant sought details including: subject, names and numbers of students, nature of the placement, contact details of placement providers and copies of formal documentation (risk assessments and tri-partite agreements). The Applicant stated they did not require information relating to student names, disability, or contact details for placements, but wished to be provided with the name and location of the placement, the type of activity taking place and the form of assessment. The Applicant also stated they wanted the name of the associated course and the role of person responsible at the placement along with any named individual responsible for placements at the College itself.
3. On 5 June 2020, the Applicant clarified that their request encompassed the information held for the current academic year and the previous five years.

4. The College issued a partial response on 26 June 2020, notifying the Applicant that it held no information with regards to BSc (Hons) in Integrative Healthcare and Oral Health Science as it does not have approval from UHI to run these courses. Similarly, as it had not run the Diploma in Person-Centred Counselling and Psychotherapy for five years, no information was held.
5. A full response was issued on 1 July 2020. This confirmed that no information was held with respect to the courses detailed above but provided information in respect of the other courses, withholding the list of names and student numbers undertaking placement activity.
6. The following day, the Applicant wrote to the College requesting a review of its decision. They considered the response to be incomplete, highlighting that they had requested the name of the person responsible at placement locations and had requested the information for the past five years, not the one provided. They also requested confirmation that, where information was not provided on locations, risk assessments and tri-partite agreements, the information was not held.
7. The College notified the Applicant of the outcome of its review on 29 July 2020. The College explained that some information was withheld as it was “third party data” and that relevant information was only held for the academic year then destroyed. A list of placement locations used over the five years was held, but could not be reduced to use on a year by year basis. It provided previously omitted location information and details of guidance and explanatory notes on risk assessments and tri-partite agreements.
8. On 2 August 2020, the Applicant wrote to the Commissioner, applying for a decision in terms of section 47(1) of FOISA. The Applicant stated they were dissatisfied with the outcome of the College’s review because there had not been a full disclosure of information requested, and because they had not formally been notified which information the College did not hold. They did not accept that responsible officer’s names at placements would be third party personal data, or that the information related to the placements was restricted to one academic year – highlighting that placements could span across two years. The Applicant also submitted that they had not been provided with any risk assessment documentation or signed tri-partite learning agreements. The Applicant expected the College to hold information according to the UHI Student Placement Policy and Guidance document. The Applicant accepted that personal data could be redacted, but still wished to see the documentation as evidence that the documents exist.

Investigation

9. The application was accepted as valid. The Commissioner confirmed that the Applicant made a request for information to a Scottish public authority and asked the authority to review its response to that request before applying to him for a decision.
10. On 3 September 2020, the College was notified in writing that the Applicant had made a valid application. The College was asked to send the Commissioner any information withheld from the Applicant. The College provided the information and the case was allocated to an investigating officer.
11. Section 49(3)(a) of FOISA requires the Commissioner to give public authorities an opportunity to provide comments on an application. The College was invited to comment on this application and to answer specific questions. These related to the withholding of personal data, the data protection principles, the College’s information retention policies and the searches undertaken for information falling within the scope of the Applicant’s request.

12. On 4 February 2021, following consideration of the Applicant's grounds of appeal, the College provided further information to the Applicant. The College accepted that the responses it had provided had omitted some information and had not clearly stated where information requested was not held or why it was not held. The College's further correspondence to the Applicant:
- provided a breakdown of the student numbers on the courses run the College over the previous five years;
 - confirmed that all course sits within the Applied Life Studies Subject Network and confirmed the name of the Subject Network Leader;
 - clarified that, with respect to the Diploma in Person-Centred Counselling and Psychotherapy, students are responsible for arranging their own placements and as a consequence no data is retained by the College;
 - confirmed that placements for the HNC course were also arranged by third parties and therefore no information was held by the College
 - clarified that placement providers are responsible for risk assessments and therefore this information was not held by the College; and
 - provided the roles of those responsible for the students at placements.
13. On 13 February 2021, although now satisfied with the College's update response, the Applicant confirmed that they still required a decision to be issued as the information should have been provided earlier in the process.

Commissioner's analysis and findings

14. In coming to a decision on this matter, the Commissioner considered all of the relevant submissions, or parts of submissions, made to him by both the Applicant and the College. He is satisfied that no matter of relevance has been overlooked

Responses issued by the College

15. Section 1(1) of FOISA provides that a person who requests information from a Scottish public authority which holds it is entitled to be given that information by the authority, subject to qualifications which, by virtue of section 1(6) of FOISA, allow Scottish public authorities to withhold information or charge a fee for it.
16. The information to be given is that held by the authority at the time the request is received, as defined in section 1(4). This is not necessarily to be equated with the information an applicant believes an authority should hold. If no relevant information is held by the authority, section 17(1) of FOISA requires the authority to give the applicant notice to that effect.
17. The Commissioner concludes that the College did not fully respond to the specific terms of the Applicant's request by omitting some information and failing to provide adequate explanations where information was not held in its responses. Therefore, the Commissioner finds that the College failed to respond to the information request in line with sections 1(1), (4) and 17(1) of FOISA.
18. As the Commissioner is satisfied that the revised response issued by the College on 4 February 2021, provided the information sought and notified the Applicant which of the

information is not held, he does not require the College to take any further action in respect of the above failures.

Decision

The Commissioner finds that Perth College (the College) failed to comply with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA) in responding to the information request. By failing to identify and provide information falling within the scope of this request and failing to provide notice that certain information was not held, in terms of section 17(1) of FOISA, the College failed to comply with section 1(1) of FOISA.

Given that the College provided information and notification under section 17(1) to the Applicant during the investigation, the Commissioner does not require the College to take any action in respect of these failures in response to the Applicant's application.

Appeal

Should either the Applicant or Perth College wish to appeal against this decision, they have the right to appeal to the Court of Session on a point of law only. Any such appeal must be made within 42 days after the date of intimation of this decision.

Margaret Keyse
Head of Enforcement

17 June 2021

Appendix 1: Relevant statutory provisions

Freedom of Information (Scotland) Act 2002

1 General entitlement

- (1) A person who requests information from a Scottish public authority which holds it is entitled to be given it by the authority.

...

- (4) The information to be given by the authority is that held by it at the time the request is received, except that, subject to subsection (5), any amendment or deletion which would have been made, regardless of the receipt of the request, between that time and the time it gives the information may be made before the information is given.

...

17 Notice that information is not held

- (1) Where-

- (a) a Scottish public authority receives a request which would require it either-

- (i) to comply with section 1(1); or
(ii) to determine any question arising by virtue of paragraph (a) or (b) of section 2(1),

if it held the information to which the request relates; but

- (b) the authority does not hold that information,

it must, within the time allowed by or by virtue of section 10 for complying with the request, give the applicant notice in writing that it does not hold it.

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