



**IN THE FIRST-TIER TRIBUNAL  
GENERAL REGULATORY CHAMBER  
INFORMATION RIGHTS**

**Case No. EA/2012/0265**

**ON APPEAL FROM:**

**The Information Commissioner's  
Decision Notice No: FS50458816  
Dated: 29 November 2012**

**Appellant: GERALDINE HACKETT**

**First Respondent: INFORMATION COMMISIONER**

**Second Respondent: UNITED LEARNING TRUST**

**Heard at: FIELD HOUSE**

**Date of hearing: 31 MAY 2013**

**Date of decision: 24 JUNE 2013**

**Before**

**ROBIN CALLENDER SMITH**  
Judge

and

**STEVE SHAW and NIGEL WATSON**  
Tribunal Members

**Attendances:**

For the Appellant: in person  
For the First Respondent: attendance excused  
For the Second Respondent: Mr James Nicholson and Mr Justin McLaren

**IN THE FIRST-TIER TRIBUNAL  
GENERAL REGULATORY CHAMBER  
INFORMATION RIGHTS**

**Case No. EA/2012/0265**

---

**Subject matter: FOIA**

Whether information is held s.1

**DECISION OF THE FIRST-TIER TRIBUNAL**

The Tribunal upholds the decision notice dated 29 November 2012 and dismisses the appeal.

**REASONS FOR DECISION**

Background

1. The Appellant, Ms Geraldine Hackett who is an education journalist, requested information about the employment packages of the Second Respondent's (ULT's<sup>1</sup>) employment packages relating to its Chief Executive and senior management team. Some information was provided but the employment-related information was not.
2. ULT receive Government grants to run the academies but it then pays part of that grant to UCST under a services agreement to provide financial and senior managerial support. ULT stated that it did not hold the information because staff were paid by a different party which was not subject to FOIA.

The request for information

3. Ms Hackett wrote to ULT on 20 February 2012 requesting the information in the following terms:

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

---

<sup>1</sup> Background information relating to the United Learning Trust is available on:  
<http://unitedlearning.org.uk>

three 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. ULT responded on 19 March 2012 stating 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 their pay, pension contribution, other remuneration or expenses that you have requested.

5. Ms Hackett asked for an internal review on 19 March 2012 and ULT responded on 11 May 2012 providing further information but maintaining its position about not holding the information concerning the requested information.

#### The complaint to the Information Commissioner

6. On 31 May 2012 Ms Hackett contacted the IC, stating:

The academy company, United Learning Trust, has refused to give me information about the pay and employment packages of its senior management team. 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 FOA.

7. ULT maintained to the IC that it did not hold the requested information because its senior staff were paid by the United Church School Trust (UCST). Although ULT was publicly-funded and subject to FOIA, the UCST – a separate charity – was not publicly-funded nor subject to FOIA.
8. The IC asked ULT to provide an example of the employment contract of one of the senior members of staff falling within the scope of the request. The ULT provided one from UCST.
9. From that example the IC determined that the contract stipulated that the employee was employed by UCST and that the UCST was responsible for the payment of salary, expenses, pension and the like.

10. The IC was given confirmation by ULT that it made no payments to senior staff – and that staff were therefore not paid out of public funds:

You are correct and the services agreement provided to you does show that the costs are met by UCST.

11. On this basis the IC concluded that ULT did not hold the requested information and has dealt with the information request correctly.

### The appeal to the Tribunal

12. Ms Hackett's concise grounds of appeal crystallise her concerns about the responses she received from ULT and the IC and set out her position in the appeal.

13. She believes that the IC did not take into account that the United Learning Trust (ULT) and the United Church Schools Trust (UCST) are subsidiaries of the United Church Schools Company and were – in effect - both part of one company.

14. The IC had stated that he was provided with an employment contract that demonstrated that ULT senior staff were paid by UCST, which was not a public authority. All the funding for ULT's academies came from the Government. If those funds were partly distributed by UCST, part of the same group as ULT, then it should account for those funds publicly.

15. She believed that ULT was using an accounting process in order not to have to publish the details of the public money that was paid to ULT's chief executive and ULT's senior managers. It could not be the case that the money for those salaries came from the funds of the private company.

16. The requested information was held by the company of which ULT was a part. It would lead to public mistrust if private companies receiving public money to run schools did not provide information about the amount of

public money that was being spent on salaries. It was important that public spending was open and transparent. The public would have greater confidence in academy companies if it could be clearly seen what amounts of public money was being spent on salaries for senior managers.

### The questions for the Tribunal

17. Is the requested information held by ULT - and therefore subject to this FOIA request - or is it held by UCST which is not subject to information requests?

18. The Tribunal reminds itself that, by virtue of s.3 (2) FOIA

For the purposes of [the 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

### Evidence

19. As well as the documentation provided, ULT's company secretary – Mr Nicholson – attended the appeal hearing. He and his colleague had expected to do so only as observers and not participants.

20. However he helpfully provided additional detail to the Tribunal and to the Appellant about the history of ULT and why the corporate structure was the way it was.

### Conclusion and remedy

21. The issue before the Tribunal is a very narrow, factual one.

22. It is one of significance to Ms Hackett because she maintains that it should not be possible for a publicly or part-publicly funded body (ULT) – subject

to FOIA – to pass to another organisation (UCST) the responsibility of payment of the senior management team because in doing so the transparency of what happened to the public funds became opaque and not subject to external scrutiny.

23. It is not the function of the Tribunal or the IC to determine whether or not the Trust's senior staff should be employed by a separate private company which is not subject to FOIA.

24. However, from what Mr Nicholson told us, that corporate structure was something the DfES had urged on ULT and individual academies within UCST could (and one very nearly had) opt out of this arrangement.

25. In the agreement for the provision of administrative services between UCST and ULT dated 3 April 2006 there is a Schedule of Services and the final point 52 (on page 9 of the Schedule: page 142 in the Tribunal's bundle) is headed Senior Staff. The text then runs:

Such services from the senior staff (including without limitation, the chief executive, deputy chief executive and departmental heads) employed by UCST as ULT may reasonably require from time to time.

26. There is a complete corporate separation between ULT and UCST and, as a result, the Tribunal is satisfied that ULT does not hold the requested information.

27. It follows that Ms Hackett's appeal must fail.

28. Our decision is unanimous.

29. There is no order as to costs.

Robin Callender Smith

Judge

24 June 2013