

David Gale

FOI Reference: 2578544

request-753080-c28c8260@whatdotheyknow.com

Date: 16 June 2021

Dear David Gale

### Your Freedom of Information Request

Thank you for your request for information dated 6 May 2021, which we requested clarification of on 10 May 2021. We received your response with further details on 18 May 2021.

This request has been handled under the Freedom of Information Act 2000.

You requested the following information:

**"Please provide sight of minutes, memoranda, policies, procedures, and any other documents that evidence the development, delivery and consultation of the EHRC's policy to focus EHRC disability discrimination litigation funding support on school children, to include any reference that directly or indirectly implies the exclusion of university students from any litigation funding support, as well as any instructions issued to reviewing lawyers or other EHRC staff members to disqualify any applications from litigation funding because of that policy even after they had met the EHRC's legal criteria, to include statistics on the volume of university students who have been denied funding because of the referenced EHRC policy."**

You clarified that this covered the following:

**"I do not want an internalised view of EHRC policy but instead an audit trail view of the policy decision process that excluded university students from litigation funding support; I do not want a list of funding applications for university student cases, just those which met the legal criteria for funding support but fell foul of the age-based policy decision in favour of school children that overrides the EHRC's legal criteria"**

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**for support; I do not need a view of the legal criteria for litigation funding support as they are already known.**

**I can clarify that the response should focus on information that evidences the consequential denial of litigation funding support for university students. Other sources have already documented multiple cases. For the avoidance of doubt, I believe that the EHRC's policy as enunciated in its own communications to applicants is unlawful per R (on the application of UNISON) (Appellant) v Lord Chancellor (Respondent) [2017] UKSC 51."**

The Equality and Human Rights Commission (EHRC) does not have a policy excluding university students from legal assistance. We therefore do not hold anything related to such a policy or any advice to lawyers regarding this.

Although our Education Aim prioritised school-aged children, this was in order to narrow the focus and increase the impact of our work. This does not exclude university students from applying for our assistance with legal cases and does not prevent us from agreeing to provide such assistance. We would not disqualify a case based on the fact that it related to a university. We cannot take on all cases referred to us and decisions are made using the criteria set out in our [Litigation and Enforcement Policy](#).

Our records show that since April 2019 our Legal Intelligence and Impact team have triaged 10 requests for assistance from university students relating to disability discrimination.

Two of these requests are still being scoped. One of the requests resulted in early enforcement work that had a satisfactory outcome and seven of the requests were unsuccessful in their applications for assistance as they did not meet the criteria in our strategic plan. Each case was assessed on its merits.

Although the broad focus of our legal strategy is upon school children we must emphasise that there is flexibility within our Core Aim for us to consider any application if the discrimination is flagrant, systemic and serious. As a result, there is no bar to a discrimination claim against a university or college being accepted for legal assistance.

We hope that this information assures you that at no point has the EHRC made a decision to deny legal assistance to individuals complaining of disability discrimination due to them being university students.

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## Internal Review

If you are unhappy with our response and wish to request an internal review please write to the Information Governance Team within 40 days of receiving this letter setting out your reasons at:

Email: [foi@equalityhumanrights.com](mailto:foi@equalityhumanrights.com)

During the independent review the handling of your request will be reassessed by Commission staff afresh.

If following the review you are not content with the outcome you may apply directly to the Information Commissioner's Office (ICO) at:

The Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF

Generally the ICO will not provide a decision until you have exhausted the review process within the Equality and Human Rights Commission.

We will now close your request as of this date.

Yours sincerely

Information Governance team

[foi@equalityhumanrights.com](mailto:foi@equalityhumanrights.com)

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