

Mr S Everett
By email

Date 20 October 2009
Our reference FOI/005/09

Dear Mr Everett

Complaint about the Learning and Skills Council

I am writing further to previous correspondence regarding your complaints about the Learning and Skills Council (LSC). I have reviewed information provided to me and I am now in a position to provide you with final conclusions. The complaints which were agreed and have been investigated are:

1 I believe the LSC has unreasonably dealt with my request for information as they have exceeded published timescales.

I am aware that you made a request for information on 28 July 2009, via the Whatdotheyknow, website for “... *the complete data set held on eMandate for the past 3 years for all colleges in England (ie 2006-07, 2007-08, 2008/9).*” Your request was acknowledged that same day.

The LSC provided you with a response on 25 August 2009, which was within the statutory timescales. The response confirmed that a) the LSC held the data requested and; b) considered the data subject to copyright. The LSC therefore sought a postal address from you to which the information could be sent to ensure copyright was not breached through disclosure. You declined to provide a further address and repeated your request, on 27 August 2009 for disclosure via the Whatdotheyknow website.

The LSC provided a further response on 2 September 2009 which confirmed that, as you had not felt able to supply an address, the LSC had applied an exemption under the Environmental Information Regulations (EIR) 2004.

As the LSC did apply an exemption within 20 working days of your initial request, this does fall within the timescale allowed for under EIR 2004 (regulation 7).

Learning and Skills Council

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However, the LSC failed to notify you in writing within 20 working days of its decision to respond in accordance with Regulation 7 and therefore I partly uphold this element of your complaint.

2 I believe the LSC has unfairly dealt with my request for information as an exemption has been applied resulting in me not being sent the information I have requested.

As outlined in correspondence, the LSC applied an exemption under regulation 12(5) (c) of the EIR 2004 because you had declined to provide a postal address to where the information could be sent.

I have reviewed the decision by the LSC, as outlined in the email dated 2 September 2009, and I am satisfied that the exemption has been applied fairly.

The LSC considers that disclosure of the information through the means requested will adversely affect the intellectual property rights in the data. The reason being is that the data requested has been supplied by third parties and is therefore subject to the copyright of those third parties. Disclosure of that data to you via the Whatdotheyknow website would adversely affect the intellectual property rights in that data. The LSC were willing to provide you with the data if you had supplied a postal address which is something you declined to do.

In light of the above I do not uphold this element of complaint.

Please note that the LSC can arrange to supply you with the data you have requested, if another address is supplied which does not give rise to the access to the data adversely impacting the intellectual property rights in the data.

If you remain dissatisfied you can make a complaint about the LSC's administration by writing, via your local MP, to the Parliamentary Ombudsman, Millbank Tower, Millbank, London, SW1P 4QP.

Alternatively if you feel the LSC has not complied with requirements of the Environmental Information Regulations 2004, you can make a complaint to the Information Commissioner, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF.

Yours sincerely

Donna Mahers
Complaints Compliance Manager