



Mr Graham Smith
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Brian Summers BSc
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Dear Mr Smith

Press statement to Jonathan Leake of the Sunday Times

Thank you for taking the time to discuss the circumstances of the recent press statement made by yourself to Jonathan Leake of the Sunday Times. I appreciate it was not possible for you to respond to all the points I raised as you were on a car journey at the time, and I said I would write to make clear our concerns and to ask that certain action be taken.

The element of your statement which gives us the greatest concern is:

“The emails which are now public reveal that Mr Holland’s requests under the Freedom of Information Act were not dealt with as they should have been under the legislation. Section 77 of the Freedom of Information Act makes it an offence for public authorities to act so as to prevent intentionally the disclosure of requests for information. Mr Holland’s FOI requests were submitted in 2007/8, but it has only recently come to light that they were not dealt with in accordance with the Act. The legislation requires action within six months of the offence taking place, so by the time the action taken came to light the opportunity to consider a prosecution was long gone.”

I do not think it is acceptable that such a statement which has led to an extremely damaging commentary on the University in the press, on radio and television and from the Chairman of the Parliamentary Science and Technology Select Committee was first communicated to the University by a journalist. As far as I can ascertain (and you did not disagree) there was no effort by the ICO to inform the University before the release was made.

Mr. Holland has submitted a complaint to the ICO, the University has sought to cooperate fully with you in your consideration of the complaint and our past experience (albeit limited) has been that we have been informed of the investigating officer's initial conclusions and the reasons for them, to give us the opportunity to make submissions well before a decision notice is issued. We thought this to be the normal practice. In this instance we have been informed of a decision through the pages of the press with no understanding of the breaches which you allege to have occurred and the evidence which is being relied upon, and with no opportunity to put forward an informed defence.

You expressed at least some appreciation of our view that communicating the conclusions of the ICO in this way is entirely inappropriate. I would ask that you acknowledge that the actions of the ICO were not appropriate in this instance, and preferably by return.

You said that, while you had not had the opportunity to review fully the press coverage, it was possible that a number of inferences may have been drawn by commentators which went beyond any conclusions which you might think reasonable or were intended to be drawn from your statement. If this remains the case, I would ask that you issue a further press statement today to clarify that fact before we suffer further damage. If you are unwilling to retract your statement, which from our conversation I believe would be the case, I would ask that you confirm in a press statement that:

1. in your consideration of the case you have not yet reached a position where you can provide the University with the opportunity to respond to any alleged breaches, and that no decision notice setting out the details of any breaches and the University's rights of appeal has been issued;
2. breaches of the FOI Act can range from technical or trivial to more serious, and it is not possible to draw any conclusion from your statement that any breaches that you feel may have occurred would fall into the "serious" category;
3. your statement cannot be taken to mean that there has been a demonstrable breach of Section 77, which is a breach of the FOI which can result in prosecution;
4. the frequently made assertion by the press that a breach of the Act in itself could lead to an unlimited fine is unfounded, it is limited to level 5.

I would appreciate the most urgent action today in response to this letter and I look forward to hearing from you.

Yours sincerely

A handwritten signature in black ink that reads "Brian Summers". The signature is written in a cursive style with a large initial 'B' and a long, sweeping underline.

Brian Summers
Registrar & Secretary

cc Information Commissioner