

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 16 June 2015

**Public Authority:** Cambridge University  
**Address:** The Old Schools  
Trinity Lane  
Cambridge  
CB2 1TN

#### Decision (including any steps ordered)

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1. The complainant requested information on animal research conducted by the university. The university refused disclosure under s38(1)(b), s40(2) and s43(2) FOIA.
2. The Commissioner's decision is that the university incorrectly relied upon s38 and s43 to withhold the information and that s40(2) applies to some items of personal data.
3. The Commissioner requires the university to disclose the information that has been withheld under s38 and s43 apart from that which is subject to the exemption at s40(2).
4. The public authority must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Act and may be dealt with as a contempt of court.

#### Request and response

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5. On 20 June 2014 the complainant wrote to Cambridge University and requested the following information:
6. *"(i). Please inform us, under section 1(1)(a) FOIA, whether you hold a project licence under the Animals (Scientific Procedures) Act 1986 (ASPA) relating to this abstract published by the Home Office:*

*'The neurological basis of behaviour of sheep. Date: Aug 16 2010'.*

*(ii). If so, please let us have the project licence, under section 1(1)(b) FOIA.*

*(iii). If not, please let us have the current or most recent project licence(s) authorising research on sheep and mice for Batten's disease and/or Huntington's disease.*

*(iv). Please let us have the project licence(s) authorising the research discussed in Kane AD et al. Statin treatment depresses the fetal defence to acute hypoxia via increasing nitric oxide bioavailability. (2012). Journal of Physiology, 590(2): 323-334 and Kane AD et al. Xanthine oxidase and the fetal cardiovascular defence to hypoxia in late gestation ovine pregnancy. (2014). Journal of Physiology, 592(3): 475-489.*

*All the requested information can be anonymised."*

7. On 18 July the university informed the complainant that it held the relevant project licenses but that it refused to disclose their content under s38(1)(b) and s43(2) FOIA.
8. On 2 September the complainant requested an internal review of the university's response.
9. On 17 October the university's internal review upheld the exemptions and added a further exemption at s40(2) FOIA.

## **Scope of the case**

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10. The complainant contacted the Commissioner on 4 December 2014 to complain about the way her request for information had been handled.
11. This notice addresses the university's application of the exemptions at s38(1)(b), s40(2) and s43(2) FOIA to the withheld information.

## **Background**

12. Cambridge University is one of the largest users of animals in laboratory experiments in the UK. It used 169,353 animals in experiments in 2013.
13. Research on animals is governed by the Animals (Scientific Procedures) Act 1986 (ASPA). Before a researcher is permitted to test on animals three types of license are required under ASPA: a personal license for each person carrying out procedures on animals; a project license for

the programme of work (the procedures carried out on the animals) and an establishment license for the place at which the work is carried out. The request in this instance concerns the project license which describes the procedures carried out on the animals, the hoped for benefits of the research, the adverse effects that the animals may experience, whether alternative methods have been considered and the methods of killing the animals at the end of the procedure.

### **Reasons for decision**

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14. The Commissioner requested a copy of the withheld information from the university in order to assess the appropriateness of the exemptions.
15. The university supplied him with the information. It informed the Commissioner that it had reconsidered its original refusal to disclose all the information and said the exemptions now only applied to parts of it. The university detailed the parts of the information that it considered should be withheld.

### **Section 38(1)(b)**

16. Section 38(1)(b) FOIA states that information is exempt if its disclosure would or would be likely to endanger the safety of any individual.
17. The university maintained that disclosure of the information would be likely to endanger the safety of the academics carrying out the research.
18. It submitted that release of information about the procedures and disclosure of the adverse effects that might be caused to the animals in the process would be likely to increase protest and activism. The university submitted that in turn this would be likely to lead to an increased threat to the safety of staff and students.
19. To support its argument the university referred to an incident in the early 2000s when it had applied to build a new animal research facility. The university said protestors obstructed entrances to the existing laboratory and injured security staff in the process.
20. It said that an online publication of scientific papers had recently generated reader comments to the effect that researchers should themselves be harmed if they caused harm to animals. Posters in the city had been put up offering cash to name those working in animal research. The university also referred to Astra Zeneca's decision to relocate its research facilities to the area. It said this had led to members of the university's Department of Archaeology and

Anthropology who were carrying out a dig prior to construction being named.

21. The university said one of its animal research project license holders had been named in a British Union for the Abolition of Vivisection leaflet and that her work had been filmed during an undercover investigation. It said the resulting allegations had caused distress to the license holder and her team.
22. Lastly, the university said that project licenses are technical scientific documents designed for a professional audience. They do not contain explanations to aid the understanding of or misinterpretation by a lay audience.
23. The Commissioner does not consider the latter argument to be a valid reason for refusal under s38, however, his view on the matter is that information should not be withheld under FOIA simply because it may be misunderstood.
24. The university's internal review said its duty of care was to those staff members who carry out research on animals. However, the complainant has pointed out that this argument is weakened by the fact that in relation to the hypoxia research license, staff members themselves have been advertising the research in publications and on the internet.
25. The results of that research were published in 2012 and again in 2014 in the Journal of Physiology. The journal does not hide the names of the researchers involved, their place of work nor their publications on animal research. The researchers themselves do not hide the fact that they conduct scientific procedures on animals.
26. Because the research and details of the researchers can be accessed by anyone via the journal's website the complainant submits that it is illogical to apply an exemption to information already in the public domain. The fact that the information has been placed there by the staff members themselves shows that they do not perceive any real risk from their public association with the research.
27. Also, the university publishes considerable information about the researchers on its own website including, addresses, telephone numbers, email addresses and links to their animal research studies. This undermines the submission that disclosure would be likely to endanger the safety of their employees.
28. The Commissioner considers that there is a marked difference between legitimate protest and violent extremism. He recognises that in the past

there has been extremism in parts of the UK by a small number of animal rights activists. However, he understands that since the imprisonment of the leading individuals the level of extremism has dropped considerably.

29. He notes that the Information Rights Tribunal in EA/2010/0064 considered the disclosure of similar information sought from Newcastle University regarding its project licenses for research experiments on animals.
30. The tribunal considered that whilst it was understandable that fears may be expressed regarding safety of individuals given past incidences of extremism and sensitivity to experiments involving animals, the situation regarding animal rights activism has improved considerably over the past years. The tribunal concluded that the evidence showed that this activity now rarely occurred.
31. The tribunal took into account research by the Understanding Animal Research group (UAR). UAR promotes the view that animal research is necessary for scientific understanding and medical progress. Its "Researchers' Guide to Communications" advises that the risk from opponents to animal research is minimised by the adoption of a more open and proactive approach to communicating with the public.
32. UAR found that researchers and organisations that have communicated with the public have not become targets as a result. On the contrary, the more institutions that are transparent, the less likely it is for any institution to be singled out. It found that those institutions that were targeted in the past had not been open on the issue. Indeed it determined that there was no relationship between being open and targeted.
33. The Commissioner acknowledges that the comments to an online publication of scientific papers as referenced by the university in its submission to withhold the information and the local poster offer of cash to name those involved in research are not to be condoned. Neither was the incident in the early 2000s as referred to by the university. However, the Commissioner must make a current judgement as to whether he considers that there is a real and significant possibility of individuals having their safety endangered should the requested information be disclosed.
34. On the evidence provided by the university he is not persuaded that that would be the case. It is already widely known that the university carries out animal research on its premises. The details of staff members involved with that research have already been publicly available on the university's

website and elsewhere. No hard evidence has been provided to the Commissioner that would firmly back up the suggestion that the safety of individuals involved in animal research would be likely to deteriorate or change specifically as a result of disclosure of the requested project licenses.

35. In the absence of any compelling evidence to support the university's submission, the Commissioner finds that it has failed to establish engagement of the exemption.
36. As the exemption at s38(1)(b) is not engaged the Commissioner has not gone on to consider the public interest test in respect of the exemption.

### **Section 43(2)**

37. Section 43(2) FOIA states that information is exempt if its disclosure would, or would be likely to prejudice the commercial interests of any person holding it. The university submitted that disclosure would be likely to prejudice its commercial interests.
38. The university's original refusal to disclose under s43 had been based on the proposition that the high degree of research expertise involved in the project work could be exploited by other researchers if the information was released into the public domain. That proposition had been upheld by the university's internal review.
39. However, during the investigation the university informed the Commissioner that it had reconsidered its position regarding the s43 exemption. It now submitted that it applied on the basis that release of the information would be likely to lead to an increase in animal rights activism. The university considered that this would likely cause contractors to withdraw from being appointed to develop new animal research facilities or increase the 'risk premium' charged as a result of the nature of the projects.
40. This argument is predicated on the idea that disclosure of the project licenses would be likely to lead to violent animal rights activism. However, as referenced in the s38 investigation above, the Commissioner considers that there is a marked difference between legitimate protest and violent extremism. Whilst legitimate protest may result from disclosure or indeed from any other release of animal research information into the public domain, it does not follow that violent extremism will take place. The Commissioner has not been provided with any evidence to support the university's speculation in this regard. Neither has it produced any evidence to show that contractors would refuse a profitable new building contract or charge a risk premium if project licenses were disclosed.

41. In the absence of any evidence to support the university's submission, the Commissioner finds that it has failed to establish engagement of the s43 exemption.
42. As the exemption is not engaged he has not proceeded to consider the public interest test in respect of the exemption.

**Section 40(2)**

43. Section 40(2) FOIA provides an exemption for information which is the personal data of an individual other than the applicant and where one of the conditions at either s40(3) or s40(4) is satisfied.
44. The condition at s40(3)(a)(i) FOIA concerns the disclosure of information to the public which would contravene any of the data protection principles in schedule 1 to the Data Protection Act 1998 (DPA).
45. The requested information contains names, contact and biographical details of some of the research staff. The university considered that disclosure of this information would breach the first principle of the DPA which requires that personal data shall be processed fairly and lawfully.
46. The Commissioner is satisfied that the individuals concerned would not have reasonably expected their personal details to be released into the public domain and he has determined that it would be unfair to do so.
47. In his view there is no legitimate interest that would require disclosure of their personal data under condition 6 schedule 2 DPA. He considers therefore that the personal details referenced in paragraph 45 of this notice should be redacted upon disclosure of the requested information.
48. The Commissioner notes that the complainant herself did not ask for the release of personal information. She indicated in her request to the university that the requested information should be anonymised.

## Right of appeal

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49. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)  
GRC & GRP Tribunals,  
PO Box 9300,  
LEICESTER,  
LE1 8DJ

Tel: 0300 1234504  
Fax: 0870 739 5836  
Email: [GRC@hmcts.gsi.gov.uk](mailto:GRC@hmcts.gsi.gov.uk)  
Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

50. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.

51. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

**Signed .....**

**Gerrard Tracey**  
**Principal Adviser**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**