

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 20 April 2016

Public Authority: City College, Brighton & Hove
Address: Pelham Street
Brighton
East Sussex
BN1 4FA

Decision (including any steps ordered)

The complainant made a number of requests for information relating to an intended redevelopment of City College's campus in Brighton. The college refused the requests partly on cost grounds under s12(1) FOIA and partly as vexatious under s14(1). The Commissioner's decision is that s12(1) applies to the whole of the information requested and so the college is not obliged to comply with the requests.

Request and response

1. On 15 September 2015 the complainant made 33 requests for information under FOIA and also a subject access request (SAR) under the Data Protection Act (DPA). He made two more information requests on 18 September. On 23 October he made a further FOIA request. Due to the number and extensive nature of the requests these are set out in an annex to this notice.
2. On 8 October the college informed the complainant that 15 of his FOI requests were considered to be vexatious and therefore subject to s14 FOIA. The remaining FOI requests were refused under s12 FOIA on grounds that the college was unable to provide the information within the appropriate cost limits. The complainant was advised to refine the requests that had engaged s12 so that these might be re-considered. The college suggested that their scope could be narrowed by the complainant being more specific about the information he wished to obtain and by including dates or periods of time relevant to the

information required. The complainant was also invited to narrow his SAR.

3. On 12 October the complainant retracted his SAR. He also retracted some parts of his FOI requests – 1d, 2c, 3b, 3c, 5 bullet point 5, 7a, 9a, 9b and appealed against the exemptions.
4. On 30 October the college informed the complainant that its internal review had upheld the exemptions at s14(1) and s12(1) in relation to his requests of 15 and 18 September and that the s12 exemption encompassed his further request of 23 October. The college advised the complainant again that if he wished to pursue his s12 requests he should narrow their scope by being more specific and include relevant dates and periods of time.

Scope of the case

5. The complainant contacted the Commissioner on 3 November to complain about the way his requests for information had been handled. He disputed that any of his requests were vexatious and complained that the college had overstated the time it would take to deal with the requests that were considered subject to the s12 exemption.
6. This decision notice addresses whether the exemptions at s12 and s14 FOIA have been applied appropriately to the requests.

Reasons for decision

7. **Section 12(1)** provides that a public authority is not obliged to comply with a request where it estimates that the cost of doing so would exceed the appropriate limit. The appropriate limit for the public authority is £450. The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 (“fees regulations”) provide that the cost of a request must be calculated at the rate of £25 per hour, providing an effective time limit of 18 hours. The fees regulations specify the tasks that can be taken into account by a cost estimate as follows:
 - Determining whether the requested information is held.
 - Locating the information or a document which may contain the information.
 - Retrieving the information or a document which may contain the information.

- Extracting the information from a document containing it.
8. The college provided the complainant with a schedule detailing the time that it considered would be taken to deal with each request. This amounted to 52 hours and 55 minutes. The complainant's request of 23 October was aggregated for the purpose of calculating whether the statutory limit would be exceeded in accordance with Regulation 5 of the fees regulations. As it was received within 60 working days of the initial requests the time estimated to deal with this was added and the total estimate came to 56 hours 5 minutes.
 9. During the investigation the college informed the Commissioner that in order to estimate the time taken to deal with the requests it had carried out the following tasks:
 - (i) Identified the sources and locations of the information.
 - (ii) Identified the relevant department and number of staff (current and former) who would likely hold the information and whose input would be required to locate and retrieve it.
 - (iii) Considered whether the information was stored in hard copy and if electronic whether it was on an active hard drive, an archived hard drive, within the current active email system or on a back-up server.
 - (iv) Calculated the approximate time taken to determine whether the information was held and if so how long to locate, retrieve and extract it.
 10. In calculating the time that each request would take, the college informed the Commissioner that it had considered that:
 - (a) Each request would need to be administered by the clerk to the corporation.
 - (b) The clerk's time to liaise with staff to determine the existence of information would take 30 minutes per request.
 - (c) After staff had located and retrieved the information, its collation and review would take the clerk 15-30 minutes per request.

On this basis it was estimated that each request would require between 45 and 60 minutes of the clerk's time. In addition the college considered that a large number of searches would need to be performed by its IT staff due to the fact that much of the information would likely be stored on back up servers.

11. The Commissioner asked the college to explain why liaison with staff would take an estimated 30 minutes per request. He also queried why collating and reviewing would take the clerk an additional 15-30 minutes per request once the information had been located and retrieved by other staff. In relation to the volume of information that would likely be archived on back up servers he asked the college to break down the estimated time to be taken to obtain this archived information within the four activities detailed in paragraph 9 above. He determined that the estimated time taken for application to Baker Tilley (a property consultancy company) that had been included in the college's calculations could not be included as requests under FOIA are for information held by the public authority and not third parties. Lastly he asked the college to re-submit its estimate of time taken to progress the 12 requests with reference only to the four chargeable activities.
12. The college replied that with regard to the clerk's time in dealing with the requests many of them related to a period when there was a high level of staff turnover. Consequently it considered that the clerk would need to spend time in determining whether such information was held by making initial enquiries to a range of current staff. The college submitted that the clerk would need to explain the nature of each request in order to both determine its existence and to ensure that the process of locating and retrieving the information/documents was undertaken as comprehensively as possible. Whilst the college acknowledged that in some cases it may be difficult to differentiate the activity of determining from locating and retrieving, it was nonetheless considered to be a fair reflection of the time which would need to be spent by the clerk on each request. In relation to the 15-30 minutes allocated to the clerk for collating and reviewing, the college considered that this should more correctly be defined as time for extracting information from the document containing it. To clarify this process, the college said it would expect staff to supply the clerk with the documents that they had located and retrieved. The clerk would then take overall responsibility for extracting the relevant information from these documents.
13. The college reviewed its calculations on account of the Commissioner's queries and provided him with a revised schedule which reduced the total estimated time for dealing with the requests to 54 hours 35 minutes.
14. Upon receipt of the revised schedule the Commissioner asked the college to respond to a further query. The revised schedule had allocated time estimated to be spent by the clerk in sending separate emails to individual staff and teams concerning each individual request and the information that was required to be searched. The

Commissioner queried why a "round robin" could not suffice in this respect rather than separate emails.

15. The college explained that when dealing with simpler FOIA requests, the "round robin" was the approach that it would normally take. However, it said the complexity and size of these particular requests had led the college to consider that they would be more comprehensible and easier to deal with by staff if they were broken down. The college considered that this would aid the process of location, retrieval and extraction of the information and its collation and provision to the complainant in the form that he had demanded in his original requests of 15 September namely:

"You are required to ensure that what is supplied is indexed and cross referenced back to the questions."

In view of this requirement the college said it had concluded that investment of time at the outset in terms of a more individualised approach to determining the existence of the information would be more than balanced by a time saving further down the line.

16. Notwithstanding the above requirement the college accepted that there was some scope to consolidate some individual emails into one. An example given was a single email to its IT department which could incorporate the different components of the search under questions 1c, 2a, 2b, 3c, 5a, 5b and 5c. The college also agreed that there was scope to consolidate questions 2a and 2b into one email to both its estates and international teams. On the basis of this consolidation the college supplied the Commissioner with an updated version of its revised schedule which reduced the total estimated time in dealing with the requests to 53 hours 5 minutes.
17. The Commissioner observes that even if this estimate was to be halved, it would still produce a result in excess of the appropriate limit. Having taken the nature and extent of the requests into account he considers that s12(1) applied and that the college was not obliged to disclose the requested information.
18. The Commissioner further determined that the 15 requests to which the college had applied s14 (vexatious requests) should be aggregated for the purpose of calculating whether the statutory limit would be exceeded. Accordingly he finds that these requests are also subject to the s12 exemption.
19. Because the 15 requests are exempt from disclosure under s12 FOIA the Commissioner has not needed to consider further the s14 exemption which the college had applied.

20. **Section 16 FOIA** provides that public authorities are under a duty to provide advice and assistance to any person who has made or who intends to make an information request to it. The Commissioner's published guidance sets out the following minimum advice and assistance that a public authority should provide to a requester when refusing a request on cost grounds:
- either indicate if it is not able to provide any information at all within the appropriate limit or
 - provide an indication of what information could be provided within the appropriate limit and
 - provide advice and assistance to enable the requester to make a refined request.
21. In this instance, the Commissioner notes that advice on refining the request was given in the letter informing the complainant that s12 applied and also in the letter informing the complainant of the outcome of its internal review. In view of this, the Commissioner finds that the college complied with its duty to provide advice and assistance.

Right of appeal

22. 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

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

23. 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.
24. 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

Rachael Cragg
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Annex

The requests (with personal data redacted):

"Your minutes of a meeting on 30th March 2015 state that "... confirmed that there was no benefit to the college of not being open with (me)".

So you'll have no problem complying with the below within the statutory timescales. If you don't, I'll have to contact the Information Commissioner, and maybe Dr ... CBE. Do not doubt me.

1. Subject Access Request

My name is ... and my address is above. My email address is ... and my telephone numbers are ...

You are required to supply the information about me or referring to me that I am entitled to under the Data Protection Act 1998.

If you need any more information from me, or in the event you need a further fee, you are required to let me know as soon as possible. In the meantime, as I know you may charge a fee of up to £10.00, I have enclosed £10.00 in the form of a £10.00 legal tender cash note so there are no delays with cheque clearance.

You will know that a request for information under the Data Protection Act 1998 should be responded to within 40 calendar days.

You can exclude specifically what I do NOT want or need:

1. Any information about me or referring to me that I am entitled to under the Data Protection Act 1998 that you hold relating to my relationship with City College Brighton and Hove as a student. Specifically I attended three one year Spanish courses, the most recent of which ended in summer 2013.

2. Any information about me or referring to me that I am entitled to under the Data Protection Act 1998 that you hold relating to my relationship with City College Brighton and Hove as an objector to your previous waste of time planning application BH2008/... several years ago.

3. Any communications that I would have already seen, because they were addressed to me, came from me, or were copied to me. Note you don't need to supply these to fulfil my FOIA request either.

If you do not normally deal with these requests, do pass this letter to your Data Protection Officer. If you need advice on dealing with this request, the

Information Commissioner's Office can assist you and can be contacted on 0303 123 1113 or at www.ico.gov.uk.

2. Freedom of Information Request

You are required to supply all of the information that I am entitled to under the Freedom of Information Act 2000. The word "information" is defined to include all recorded information (paper or electronic), documents, drafts, emails, notes and recordings you hold. This will of course cover items sent and received, whether within your organisation or between your organisation and third parties (excepting communication to me, from me, or copied to me which I will already have) in answer to the questions I pose.

You are required to note that there are some overlaps between the questions below and those I asked on 25.6.14. However of course the questions then asked are not the same as those hereunder seek information up to today's date and the majority of the events that the current questions are about had not occurred by 25.6.14. A reasonable period has passed since then.

On 31.7.14. I met with the senior CCBH officer ... He asked me if I was happy with the FOIA response, and I replied he had redacted most of the documents. He sniggered and said "pursue it as you won't get anywhere".

So we'll take it as read the last request was not dealt with properly or in accordance with the legislation. However, of course there is no need to supply anything you did actually supply in the same redacted form again.

You are required to ensure that what is supplied is indexed and cross referenced back to the questions.

If you wish to withhold or redact any information you are required to tell me what your reason is for each and every withholding or redaction. This will only save you time as I will relentlessly pursue you regarding every redaction otherwise, and if that doesn't prise the information out of the College I'll refer the matter to the Information Commissioner. My resolve should not be doubted as you have stolen two years of my life by messing me about.

The deadline of 14th October 2015 is already diarised.

Under the circumstances, to save us both time, I must tell you specifically that the legal professional privilege (section 42) exemption only applies to confidential communications between lawyers and clients.

If you do not normally deal with these requests, you are required to pass this letter to the Responsible Officer. If you need advice on dealing with this request, the Information Commissioner's Office can assist you and can be contacted on 0303 123 1113 or at www.ico.gov.uk.

TO ASSIST YOU EACH QUESTION INCLUDES A LONG PREAMBLE OF BACKGROUND AND FACTS AND THEN SHORT QUESTIONS IN BULLETS.

Q1 – This question is about events surrounding my termination of the college's conditional agreement dated 9.12.13. which is in the court papers attached (this agreement is referred to after this and throughout this document by what I consider it to be (and I'm entitled to my views) as "City College Board's Sham Contract", abbreviated to 'CCBSC'. Facts that cannot reasonably be in dispute:

- (a) I wrote to you on 29.6.15. by email stating "As you know a paper is going to the board meeting on 6th July about the contract between us. I am concerned that owing to high levels of staff turnover CCBH may have forgotten why it originally entered into the contract. On the other hand I have a suspicion, borne out by events, that it is possible that the conditional agreement was entered into by CCBH for reasons other than an intention to purchase. Events throughout, including my being misled at the outset, and ongoing to this very day, could lead anyone to the conclusion that an untenable situation has been deliberately created by CCBH. We should not be having this discussion at all as the College's stated position on entering into the Contract was that it would not need very long at all to go unconditional, and the contractual terms were accepted on that basis. You will therefore understand that it is vital that I see the paper that is going to the board before it goes, so I can see the situation is being presented fairly and accurately, as it would be a very serious matter for both parties if costly litigation were to flow only from incompetence and CCBH's lack of corporate memory. I also feel it may be beneficial if I was to provide my own representations to the board as to why the new contract is required."*
- (b) You wrote to me on 4.7.15. stating "Thank you for your email. I have discussed this with the Chair of the Board of Governors. We would like to reassure you that the Board is aware of the rationale for and detail of the original agreement. We will be in contact with you after the Board meeting on 6 July."*
- (c) The board instructed your solicitors to write to mine on 15th July 2015 rejecting any changes to CCBSC and inviting me to terminate.*
- (d) We gave notice to terminate the CCBSC on 20th July 2015. The letter was hand delivered to your place of business. The termination was communicated from my solicitor to yours by email the same day and I forwarded that message to you, Principal ..., and Chair of Board ... the same day by email. Principal ... signed the letter dating it the same day.*
- (e) On the evening of 28th July 2015 I began to suspect that the college may simply be ignoring the termination and spoiling for a fight to test my mettle, in direct contravention to Principal ...'s assertion in*

the meeting of 30th March 2015 backed up by yourself, where she said "she would not dream of having a fight".

- (f) *So there could be no ambiguity, I instructed my lawyers to write to yours on the morning of 29th July 2015 saying "As I have not heard from you, nor has my client heard from your client directly, in response to our letter of 20 July we understand that all contractual arrangements between our clients will come to an end in accordance with the termination notice on Monday 3 August. Can you please ensure that the restrictions placed on title by your client are removed immediately on termination." I forwarded the message immediately by email to yourself, Principal ..., and Chair of Board ..., saying "FYI and action".*
- (g) *On 30th July your lawyer replied to mine stating "With reference to your letter of 20 July, please find attached my client's acknowledgement of the termination notice.....I have checked your client's titles and it appears that no unilateral notices were lodged and therefore nothing further needs to be done in this respect."*
- (h) *On 31st July I instruct my lawyer to check the undertaking received from your lawyer and, after running the same check your solicitor undertook he had done that he undertook found my titles to be free of restrictions imposed by your Board, unsurprisingly, like all other undertakings received, the undertaking from your solicitor, which your board asked him to give, was untrue, unilateral notices that need to be removed on termination WERE on the titles, but the college, the only legal entity than can remove them to give me free title, denied they were ever imposed.*
- (i) *The main two things the college needed to do upon my termination of CCBSC were remove the restrictions ("unilateral notices") and vacate As it was clear you intended to do neither, you just wanted me to terminate the bit you don't want (the bit about buying - but want to keep the restrictions on to bully me) it was clear the college was spoiling for a fight to test my mettle for later litigation regarding impacts of the building phase. So I ensured we had legal resources in place and ready on 4th August for the battle to recover the property and get the restrictions off so I had free title.*

Taking account of the above, YOU are REQUIRED to:

- *Give me any and all documents showing the decision making process that took place resulting in you trespassing in the property after 3rd August, necessitating me needing to employ a litigator to remove you.*
- *Give me any and all documents that resulted in the decision being made that your lawyers issued to mine correspondence saying that there were no restrictions on titles when the absolute opposite of the undertaking was the truth.*

- *Tell me how much public money you spent in irrecoverable legal costs to defend the action (or to test my mettle, however it is you see it) that was a wholly unnecessary waste of public money as it was unwinnable. I spent £5,795.60 to 18.8.15. on the eviction and fighting you to get the restrictions off. How much did the College spend?*
- *Supply me with any information, for example letters of commendation, bonuses, information about pay rises that were given to any member of staff or board member for engineering this situation.*
- *If my conclusion is wrong about you deliberately engineering this situation to test my mettle (I am entitled to my opinion and bearing in mind your behaviour over two years, my conclusion is perfectly reasonable), then the only other conclusion is wholesale incompetence. Therefore, supply me with any information about disciplinary action or warnings you are taking against any members of staff or board members, and any information about the decision making process where such action has been considered, and conclusions reached.*

Q2 – During the litigation to throw you out of the ... property, which you caused by deliberately trespassing (the board understands the detail of the agreement don't they, you said so in an email) your lawyers stated:

- (a) That you would not pay our fees as a letter before action was not issued. They stated "As you are aware, our clients licence in respect of ... came to an end on 3rd August 2015. Notwithstanding that your client was aware that the premises were being used to house overseas students, I note that a letter before action was not issued prior to this claim which was sent to the Court, the very next day and issued on 5th August."*
- (b) It is clear from the previous question that you engineered the whole situation to test my resolve, so leaving me with no alternative to pick up thousands of pounds of irrecoverable legal costs.*
- (c) A foreign student knocked on my door in distress early in the evening of Friday 7th August and told me the college had told him he had to ask me if he could stay. Evidently he had been told to leave on that day and chaotically moved out with his belongings in bin bags in a vehicle I think was a taxi about an hour later. I did say to him that all the college managers had known about this for some time and he seemed not to believe me and said he had been told it was all my fault.*

Taking account of the above, YOU are REQUIRED to:

- *To give me copies of any dated correspondence the occupants may have received from yourselves asking them to move out.*
- *Any college internal communications regarding the occupants move out.*

- *This will demonstrate to me that occupants were of course given ample notice (a letter before action even!) rather than being tossed into a taxi with bin bags at a moment's notice, like disposable human flotsam who can be taken advantage of because English is not their first language.*

Q3 – This question is about the college's payment of the licence fee to me under the licence agreement part of the CCBSC, and the college's payments to suppliers under clause 2.4.2 and clause 2.4.3 of licence agreement part of the CCBSC.

- (a) During the litigation to recover possession of the ... property you were trespassing in to test my mettle, a contractor from Eon appeared at my door saying that they were going to seek a warrant owing to an unpaid gas bill. I was mystified as to why he appeared at my door. When we contacted your solicitors about this they gave an undertaking to our solicitors saying "They [City College] have not been in default". My solicitor said that because this was an undertaking from a solicitor we should be able to rely on it.*
- (b) On the day after I got you out of the property, my house sitter got a bill from Eon addressed to The words obscured from the top of the window of the envelope stated "City College Brighton and Hove". So the college has given Eon the address of my freehold house as its business address. This is an aggravating factor as clearly the business address is where recovery action will be targeted. The bill was for a total of £842.39 with £530.34 "Balance on last bill 12 May 2015" – in other words "default". I know the opening and closing readings and the "default" therefore commenced about a year ago. I immediately contacted other suppliers all of whom said they could not share information with me, but, tellingly, all refused to rule out that the college had given the address ... as their business address.*
- (c) In the litigation correspondence between the lawyers we brought to your lawyers attention that part of the licence fee for your legal period of occupation is unpaid. The response was that the legal action was for the period of trespass and I could pursue the college for sums legally due under the licence that your Board Chair ... signed, but it would cost me more than I'd recover, even though there were outstanding sums that were admitted legally due, so I'd best not bother.*

Taking account of the above, YOU are REQUIRED to:

- *Give me all information in your possession that will tell me how it came to be that your lawyer made the undertaking that the college was not in default, when in truth, the diametric opposite had been the case for about a year.*

- *Give me all information in your possession about the instructions given to suppliers so they reached the conclusion that ... was your place of business.*
- *Give me all information in your possession about the initial decision made not to pay sums legally due under the licence agreement part of the CCBSC signed by Chair of the Board ... including that after I wrote lengthy emails to both your Finance Team and your International Team about this, most recently on 1.9.15. Sums remain unpaid at the time of writing.*

Q4 - This is a question about why the board entered into the CCBSC.

(a) On 16th December 2013 the board minutes stated "13.91.2 Purchase of ... - Supporting paper spoken to by the Chair of the Board - The Board was asked to ratify the decision to purchase ..., at the price outlined in the Agreement circulated previously. It was agreed that it made sense both commercially and practically....."

Taking account of the above, YOU are REQUIRED to:

- *Provide the "supporting paper".*
- *Clearly the purchase of my properties (if that be the real purpose of the contract) would have been taken following much work on issues both commercial and practical. Therefore, provide me with all the information about how the decision was arrived at and information about each and every "practical" and "commercial" issue for the college was in making the unilateral "offer" to "purchase" and following through with the CCBSC.*

Q5 - This question is about the College's published accounts for the year ended 31st July 2014. Your auditors question whether you are a going concern by stating "These conditions indicate the existence of a material uncertainty which may cast significant doubt about the College's ability to continue as a going concern".

- (a) By reference to note 12, as £703k of EXPENDITURE on the capital scheme has been capitalised to the balance sheet on the asserted justification that the scheme is MORE THAN PROBABLE then it naturally follows that the liability flowing from the conditional agreement (if the college ever meant to meet it) would need to be shown as the amount is known with certainty, being £870,000.*
- (b) It also naturally follows that if the college actually intends paying the people it is signing rights to light agreements with (quantum known with reasonable certainty as the Brighton and Hove Council report 107(a) attached says these will be "based on statutory levels of*

compensation" which is based on Lands Tribunal values) then these liabilities would similarly have to be shown in the accounts.

Taking account of the above, YOU are REQUIRED to:

- *Give me all correspondence between you and Baker Tilly disclosing the conditional agreement to them, and all documents and correspondence so I can understand the process that arrived at the result that costs of the purchase to be made under CCBSC are not shown as a PROVISION or LIABILITY (or even disclosed by note as a CONTINGENT LIABILITY) in your accounts, signed by Chair of the Board It is important I understand this as you say in the annual accounts that the scheme is more than PROBABLE, the purchase which takes place when the probable scheme is implementable is therefore a "genuine obligation" and the quantum of the liability is known. The existence of even a contingent liability needs to be disclosed if the possibility of an outflow of economic benefit to settle the obligation is more than remote – a much lower test than the "MORE THAN PROBABLE" test that will trigger the scheme and, of course, the purchase. Alternatively, give me information that shows how the decision was arrived at within CCBH not to tell Baker Tilly anything at all about the existence of the conditional agreement, and the justification for this decision as this of course will show how you see your obligations under CCBSC against the background of a scheme that is "more than probable".*
- *Give me all correspondence between you and Baker Tilly disclosing right to light liabilities of the scheme to them, so I can understand the process that arrived at the result that costs of the settling these are not shown as a PROVISION or LIABILITY (or even disclosed by note as a CONTINGENT LIABILITY) in your accounts, signed by Char of the Board It is important I understand this as you say in the accounts document that the scheme is more than PROBABLE, the right to light liabilities flow from when the probable scheme is implemented and are therefore a "genuine obligation" and the quantum of the liability is known with some certainty as it will be based on statutory levels of compensation fixed by the Lands Tribunal as you have engaged Brighton and Hove Council to "crush" (CCBH's word) the neighbours, see committee report 107(a) attached. The existence of even a contingent liability needs to be disclosed if the possibility of an outflow of economic benefit to settle the obligation is more than remote – a much lower test than the "MORE THAN PROBABLE" test that will trigger the scheme and the, of course, the payments. Alternatively, please give me information that shows how the decision was arrived at within CCBH not to tell Baker Tilly anything at all about the existence of right to light obligations, and the justification for this decision as this of course will show how you and your auditors actually see legally binding obligations under legal agreements you are signing, against the background of a scheme that is "more than probable".*

- *Send me all correspondence relating to the capital scheme where the College's published accounts for the year ended 31st July 2014 have been used as appendices, e.g. correspondence to potential funders, with replies, or to Brighton and Hove Council, with replies.*

Q6 - This is a question about funding for the project and also about your relationship with the council.

- (a) In December 2014 to "demonstrate" to me that you would buy the properties when you had monies (i.e. to use the CCBSC to keep me under notice of eviction without information and to keep me quiescent for a little longer – your game throughout) you told me you would fund parts of the project from L & G and some costs from LEP.*
- (b) In the 23.2.15. board meeting your minutes state ... raised concerns about the college's relationship with the council and it was minuted that "it was AGREED that a statement needed to be made to the local authority to give reassurance about the college position".*
- (c) Mr ... seems to be connected with LEP in some way as well.*

Taking account of the above, YOU are REQUIRED to:

- *Provide further information sufficient that I can understand what concerns the college thought the council had, what reassurance was required, and about what, and how it will be, or has been given, including, obviously, the "statement" itself. The statement obviously exists as the SLT were directed to make the statement back in February and it is now September.*
- *Provide information on what Mr ...'s responsibilities are with regard to distribution of LEP monies.*
- *Provide me with information showing how the Board and Chair ... considered LEP funding from Coast to Capital LEP could be used for the ... Development.*
- *Provide me with details of what elements of spend on the ... Scheme it was intended to use the LEP monies for, and when.*
- *Provide me with the written criteria as to what ring fenced LEP monies can actually be used for.*
- *Provide me with information about whether any members of the board have declared a conflict of interest over the matter of LEP funding, and if so, who the member is, and what the declaration says.*
- *Provide me with the names and addresses of the funders / lenders including L & G, and tell me whether the published accounts referred to in the previous question have been sent to these lenders as part of the due diligence process.*

Q7 - This question relates to the signing of the CCBSC.

- (a) *The Heads of Terms supplied on 4th December 2013, before the conditional agreement, was quite categorical saying that the purchase would be triggered by the granting of full planning permission and subsequent s106 agreement. The original purchase date seemed achievable based on that definition, so I never made a fuss about any points of detail.*
- (b) *... said that no indexation clause was required as the deal was to be done at a defined point, and whether it would or would not be done was determined by the planning committee vote.*
- (c) *The college's very next act after saying this was to delay for another whole business day and only made the first draft of the conditional agreement available after lunch on 6th December 2013, a Friday. An email, the very next act of the college, carrying the FIRST DRAFT which in the depths of the detail defined when the purchase would take place wholly differently from the oral agreement reached only 48 hours before, demanded "that your client will now contact the Council and proceed with the withdrawal of their objections to the proposed development" – in other words I was IMMEDIATELY to withdraw my objections as a bargain for not even having time to consider a wholly different written agreement to that reached orally less than two days before – but of course the difference was buried in the detail of the words, and of course owing to the differing knowledge between the parties of the practical effect of the words was hidden from me (one party having all the information about the timeline, the other not, which still remains the case).*
- (d) *During the half business day from when the first draft was made available to when I had to withdraw my objections, (because of the practicalities of the objections not being incorporated in the council's committee report and this frustrating the deal), I communicated with CCBH about my concerns at lunchtime on 9.12.13. and ... said we were "working in partnership" and I was "not to worry" and the practicalities were that "everything remained as already agreed".*
- (e) *During 9.12.13. in one of the many versions we were inundated with, my termination right was removed.*
- (f) *The conditional agreement required I withdraw objections to the scheme, shut up, and agree to restrictions on titles, and in return for this the college agreed to buy the houses by 30th June 2014.*
- (g) *Of course with no termination right the reality of the agreement was the college could extend indefinitely at a fixed price, while keeping me under the cosh, under constant threat of eviction redefining the "capable of implementation clause" at every encounter, so stopping me being able to move and sort out my housing situation CCBH created (while simultaneously getting you to write me nice emails about how sorry you are my mother is ill), the plan of course no doubt being that I could not object to s61 construction plan as I was under secrecy, nor to s278 highways agreements (neither of which was in*

the deal we had reached – as CCBH was meant to have bought by then) then drop me like a stone as whether to extend "month by month" was wholly in your gift. My lawyer calls the CCBSC a "gagging order".

- (h) CCBSC included a secrecy clause which I would have been in breach of by discussing the environmental and health and safety effects of the construction phase with the council.*

Taking account of the above, YOU are REQUIRED to:

- Provide information in the form of meeting notes and communications so I understand what the intention of the CCBSC was from the outset.*
- Provide information as to why my termination right was removed and when the decision was made and who made it.*

Q8 - This is a question about CCBSC and the issue of the s106 agreement.

(a) On 14th March 2014 the college wrote to me saying "I'm very conscious that the purchase by the College of your property at ... has taken longer than we both expected" and the remainder of the letter told me that the "The delay in moving forward from the issue of a resolution to grant planning consent to the actual grant of the planning consent (which, as you are aware, is a condition of the contract between us) is down to the fact that the Section 106 agreement (which must be in place before the planning consent can be granted) is extremely complicated...I appreciate that your aim is to complete the sale and purchase prior to 6 April [2014] and, whilst the College would like to accommodate this, it is simply not going to be possible. Any planning consent granted must be free from challenge which adds a further 6 weeks to the timetable and therefore takes us past your deadline."

(b) Your lawyers were negotiating with mine about the exact length of the JR challenge period and agreed on 8.4.14. "The challenge period will be 6 weeks and 10 working days, to ensure that we are not caught by a last minute challenge". This negotiation was time wasting and had no meaning if the expiration of the challenge period was not to be the trigger for the purchase, and any reasonable person would now conclude that that part of the negotiation (which included me going forward on a related purchase) was conducted in complete bad faith and was simply designed to mess me around, waste my time, screw me to the floor while you knew my mother was in hospital, and damage my credibility and reputation as a bona fide purchaser with all the agents in the city, which is my home.

(c) On 10.4.14. @ 16.27 your lawyers email mine saying that the purchase will not take place at the expiry of the s106 JR challenge

period. Of course we were not to know when we replied that you knew full well that the planning consent was to be issued the next day, 11.4.14., and that itself defined the end date of the challenge period, so the date you had said you would buy.

Taking account of the above, YOU are REQUIRED to:

- *Supply me with information that will show me the veracity of the statements made on 14.3.14. and 8.4.14. that the college actually could and would complete the purchase once the planning consent was free from challenge.*

Q9 - This is a question about the knowledge and competence of your board headed up by Chair ..., and its management team (which seems to change periodically) and the people that provide administrative support to the board.

- (a) On 23rd March 2015 the board minutes say that the board considered it an "act of goodwill" to extend the contract to 31st December 2015 – (I might add that this instruction of the board, actually made back in January was not to be carried out for another two months after this assertion owing to incompetence or malfeasance to wear me down). This "goodwill" assertion has been a common theme, oft repeated by your lawyers and your board.*
- (b) For example on 8.4.14. in response to an email from my lawyer to yours about the original dates in the contract not being workable as you unilaterally changed the rules your lawyer replied "This is not agreed. My client is offering your client a concession as a gesture of good will and does not expect to be responsible for additional fees." Bearing in mind the Contract I was enticed into was held out as simply a legal vehicle where I withdrew objections and the college bought my houses in return, representing just doing what the contract states as concessions or acts of goodwill seems to me to be bad faith and, further, bearing in mind it was the college's offer to buy, and the college's contract, entered into because it was a "tight site", the "concessions" are actually rendered necessities owing to the college's delay in not purchasing the properties at the end of the JR period when it said it would when it enticed me into the CCBSC.*
- (c) On 23rd March 2015 the board minutes state "The Board considered that their offer to extend the pre-sale agreement and lease to 31 December had been an act of goodwill, to provide assurance to the Vendor of the College's commitment to the purchase, but there was no obligation to extend payment.". The payments referred to are contractual and set out in CCBSC signed by the board.*
- (d) Part of the meeting on 30th March 2015 was minuted as follows " ... said the Board had understood that extension of the payments beyond*

31 July was discretionary. ... referred back to Clause 5.3 of the original agreement, which stated that the compensatory payment should be paid until completion of the sale and that this contractual commitment had not been changed in any supplemental agreement. ... said there was a nuance around the amount. ... said there was not and ... said the board's understanding was the monies paid over and above the £1,500 for the licence were "discretionary". To get to this point, and afterwards, to get CCBH to understand its own contract that it pretended not to understand required numerous costly lawyer interactions. The board stated "It was also considered that the level of legal support sought by the vendor had been for him to decide", which, under the circumstances is clearly nonsense.

(e) It is simply not credible that a board that is going to mastermind a redevelopment running to £70-80m, consisting of many complex contracts, cannot manage or understand a contractual relationship relating to under £1m

Taking account of the above, YOU are REQUIRED to:

- Provide information on what the board really knew about CCBSC in the form of meeting notes, briefing notes from yourself and senior managers like Principal ..., as it is not credible to me that everyone in CCBH is this incompetent.*
- The information you provide will be sufficient to let me know if we are talking widespread wastage of public money due to incompetence or deliberate wastage of public money to mess me about for two years to grind me down.*
- Supply any information given to the board that tells me how it is that the board reached the conclusion it did repeatedly, that simply acting in accordance with the terms of a contract it has entered into of its own volition, are concessions, or acts of goodwill.*

Q10 - The below bullets are some mop up questions about issues not covered elsewhere.

YOU are REQUIRED to:

- Supply copies of all notes made at all meetings I have had with the college.*
- Supply copies of all board minutes, un-redacted, where CCBSC was discussed. In order that you unambiguously understand the question, it may be that items need to be confidential, but items about me must be disclosable to me now CCBSC is ended, albeit after you tested my mettle by not removing restrictions on titles and trespassing in ... so I had to use a costly litigator to throw you out.*

- *On 21.5.14. your lawyers threatened on the telephone to use powers of compulsory purchase against me if I did not shut up, when my solicitor asked a simple question about what the outstanding issues were and the timeline for dealing with them. It would be a serious matter if you instructed your lawyers just to make an empty threat, and they complied, so supply all information about how you intended to ditch CCBSC and proceed with a compulsory purchase, what you thought your powers of compulsory purchase were, why you thought you had them, and on what terms that would have been. Supply all information about how the college having compulsory purchase powers and whether it could exercise them is linked to whether I "shut up". I understand that you could have required help from a legal entity with compulsory purchase powers. Supply all information about any discussions with that entity about that entity using compulsory purchase powers to assist you in getting rid of me at a price determined by the Land Tribunal and under what circumstances you and that entity considered this might happen, and how this was linked to my shutting up or not shutting up.*
- *I've spent about £20,000 in professional fees dealing with the deliberate intentional mischief brought about by the CCBSC. You will have incurred legal fees, penalty payments, rent payments and all kinds of other amounts in stringing the matter out into litigation ending with your costly trespass, rather than just buying when you said you would, at less than the houses are worth now. You are required to tell me how much you have spent on the matter of ..., breaking amounts down into different categories of expenditure, ensuring that a maximum of £1,000 is shown under a category of "miscellaneous". As another financial year has now closed, tell me how you intend to show each of these items in your accounts.*

You are required to note that failure to answer questions within the 20 working day time limit will result in my asking questions of others, such as the council or Coast to Capital LEP, immediately, without further recourse to yourselves.

Failure to comply with the legislation will result in my asking the information commissioner to intervene. Do not doubt my level of determination."

Request of 23 October:

"... provide minutes of the meeting of 20th July ... with the paper setting out the consideration of strategic options."