

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 22 May 2013

**Public Authority:** The Universities and Colleges Admissions Service (UCAS)

**Address:** Rosehill  
New Barn Lane  
Cheltenham  
Gloucestershire  
GL52 3LZ

#### **Decision (including any steps ordered)**

---

1. The complainant submitted a number of requests to UCAS. 'Request 5' sought data about applications to universities; 'request 6' sought data about the accuracy of predicted grades of applicants to universities. UCAS argued that as a public authority, that was only partially covered by FOIA, it had no obligations under FOIA in relation to information that was not held for the immediate purpose of its single FOI designated function, namely the provision and maintenance of a central applications and admissions service. It concluded that on this basis the majority of the requested information was not in fact accessible under FOIA, in other words it was not a public authority in respect of the majority of the requested information as it related to previous admissions cycles. In the alternative, UCAS argued that the information falling in the scope of request 5 was exempt on the basis of sections 41(1), 43(1) and 43(2) of FOIA and that fulfilling request 6 would require the creation of new information, something it was not required to do under FOIA.
2. With regards to the issue of its designation, the Commissioner disagrees with UCAS and has instead concluded that all of the information falling within the scope of both requests is potentially accessible from UCAS under FOIA. However, the Commissioner is satisfied that the information falling within the scope of request 5 was correctly withheld on the basis of section 43(2), the commercial interests exemption, and that fulfilling request 6 would indeed require the creation of new information and thus for the purposes of FOIA, UCAS does not hold the information sought by request 6.

## Request and response

---

3. On 18 February 2012 the complainant submitted five separate requests to UCAS. Only request 5 is the focus of this complaint:

*'Please could you supply me with an Excel spreadsheet (or with data in an electronic form which may readily be loaded into such a spreadsheet, such as a tab delimited file) containing the columns described below:*

1. *For the three academic years from 2009/10 to 2011/12 (to date) together*
2. *For each course at each university*
  1. *University name*
  2. *Course name*
  3. *JASC code(s) for the course*
  4. *Number of applications*
  5. *Number of confirmed accepted applications*

*Only students who were 21 or under at the beginning of the academic year when they were expected to be admitted.  
If data elements are missing please leave the relevant cell or column blank.*

*Please do not summarise data - one line per student is what I am after. Please do not clean or glam up the presentation of the data. I want it in its raw form. Data may be provided in multiple tables if that requires less effort - e.g. perhaps show DCSF code, school name and postcode as lookup tables linked to the UCAS school code.'*

4. The complainant also submitted a further request to UCAS on 9 March 2012, which he described as 'request 6'. This request, which is also the subject of this complaint, sought the following information:

*'How good are schools at predicting grades:*

*Please could you supply me with an Excel spreadsheet (or with data in an electronic form which may readily be loaded into such a spreadsheet, such as a tab delimited file) containing the columns described below:*

1. *For the three academic years from 2009/10 to 2011/12 (to date) together*
2. *For each pupil\*\* applying to university through UCAS*

3. *For each Level 3 exam for which they have offered a predicted grade School ID*

1. *Qualification*
2. *Subject*
3. *Predicted grade*
4. *Actual grade*

*\*\* Only students who were 21 or under at the beginning of the academic year when they were expected to be admitted*

*As before:*

*If data elements are missing please leave the relevant cell or column blank.*

*Please do not summarise data one line per examination is what I am after.*

*Please do not clean or glam up the presentation of the data. I want it in its raw form. Data may be provided in multiple tables if that requires less effort.'*

5. UCAS provided the complainant with a response to request 5 on 11 April 2012. It explained that it had considered this request along with request 4, which the complainant has also submitted on 18 February 2012, given their similarity. It explained that these two requests were being refused on the basis of section 12 of FOIA as it was estimated that the cost of complying with them would take more than 18 hours and thus would exceed the appropriate cost limit. It also explained that it considered the information sought by these requests to be exempt from disclosure on the basis of sections 21 (information accessible by another means), 40(2) (personal data) and 43 (commercial interests) of FOIA.
6. UCAS provided the complainant with a response to request 6 on 13 April 2012 and explained that it was refusing this request for the same reasons, i.e. on the basis of sections 12, 21, 40(2) and 43 of FOIA.
7. The complainant contacted UCAS on 14 April 2012 and asked it to conduct an internal review of its handling of both of requests 5 and 6 and provided detailed submissions to support his position that both section 12, and the various exemptions, had been incorrectly relied upon.
8. UCAS informed the complainant of the outcome of the internal review on 28 May 2012. In relation to request 5, UCAS explained that it was no longer seeking to rely on section 40(2) to withhold this request, but it

was still seeking to rely on sections 12 and 43(2). In relation to request 6, UCAS explained that it was now of the view that for the purposes of FOIA it did not hold the information requested because fulfilling this request would involve the creation of new information. In the alternative, UCAS explained that it was relying on section 12 and section 36(2)(c) as a basis to refuse request 6. (Although the internal review made did not make it clear that UCAS was no longer seeking to rely on section 21 of FOIA, the Commissioner understands that at the internal stage UCAS had decided to no longer rely on section 21 as a basis to refuse requests 5 and 6).

## Scope of the case

---

9. The complainant contacted the Commissioner on 22 June 2012 to complain about the UCAS' handling of requests 5 and 6 and this notice focuses simply on these two requests. The complainant also raised a number of broader concerns with the Commissioner about the operation of UCAS' publication scheme. However, on the basis of section 50(1) of FOIA a decision notice can only consider a public authority's handling of specific requests. Therefore, the Commissioner has dealt with the complainant's concerns in relation to UCAS' publication scheme in separate correspondence.
10. During the course of the Commissioner's investigation UCAS' position in relation to requests 5 and 6 shifted significantly.
11. Initially, the Commissioner clarified with UCAS that whilst requests 4 and 5 had been refused on the basis that the aggregated cost of complying with them exceeded the appropriate cost limit of £450, UCAS could answer request 5 on its own within the cost limit. The complainant confirmed that he wished UCAS to reconsider request 5 on this basis, and UCAS confirmed that it still considered the information sought by request 5 to be exempt from disclosure on the basis of section 43(2).
12. More fundamentally, UCAS subsequently explained to the Commissioner that it had reconsidered the extent to which it believed it was subject to FOIA in accordance with the section 5 designation order under which it was, to a limited extent, designated a public authority. It concluded that it was not a public authority in relation to the majority of the information falling within the scope of requests 5 and 6 and provided the Commissioner with detailed submissions to support this position. In the alternative, if the Commissioner concluded that if all of the information falling within the scope of requests 5 and 6 was held by UCAS for the purposes of FOIA, then UCAS argued that in relation to request 5 this information was exempt from disclosure on the basis of section 43(1),

43(2) and 41(1). In relation to request 6, UCAS' alternative position was that providing the information falling within the scope of this request would involve the creation of new information, something which under FOIA public authorities were not under a duty to do, and thus its position was that it did not hold the requested information.

13. Therefore, in this decision notice the Commissioner has initially considered whether UCAS is in fact a public authority for all of the information falling within the scope of requests 5 and 6. Having concluded that it is, the Commissioner has gone on to consider UCAS' alternative positions regarding these requests.

## Reasons for decision

---

### UCAS' designation under FOIA

14. UCAS provided the ICO with detailed submissions to support its position that it is not a public authority for the purposes of FOIA in relation to the majority of the information falling within the scope of requests 5 and 6. (It accepted that it was a public authority in relation to some of the requested information). The Commissioner has summarised UCAS' position below and has then gone to explain why he is of the view that UCAS is a public authority in relation to all of the information falling within the scope of these requests.

#### *UCAS' position*

15. UCAS, like a number of other public authorities, is designated as being subject to FOIA for limited purposes. A designation order issued under section 5 of FOIA set out the extent to which UCAS is covered by FOIA. This order states that (emphasis added by UCAS):

*'The persons listed in column 1 [i.e. UCAS] of the Schedule are designated as public authorities under section 5(1)(a) of the Freedom of Information Act 2000 with **respect to the function or functions specified** in column 2...*

*...The provision and maintenance of a **central applications and admissions service** in relation to:*

*a) an institution listed in paragraphs 53(1)(a) to (e) and 55(1)(a) and (b) of Part 4 of Schedule 1 to the Freedom of Information Act 2000(e);*

*b) an institution listed in Part 5 of Schedule 1 to the Freedom of Information (Scotland) Act 2002(f);*

*c) the College of Agriculture, Food and Rural Enterprise.*<sup>1</sup>

16. UCAS has explained that its wholly owned subsidiary company, UCAS Media Limited (UCAS Media), is completely outside FOIA by virtue of section (1)(b)(ii) of FOIA and is not involved in its FOI designated function.
17. UCAS noted that the wording of its designation was significantly different from the BBC's derogated designation under FOIA, another body which was only partially listed as a public authority. The BBC's designation as a public authority is '*in respect of information held for purposes of other than those of journalism, art or literature*'. In other words it establishes the BBC as a public authority for all of its information, except that which is held for the purposes of its journalism, art or literature. UCAS emphasised that, in contrast to the BBC, is designated in relation to only one of its functions. The default position is **not** that UCAS is a public authority with the exception of certain information, but that no information held by UCAS is accessible under FOIA, unless and to the extent that it is being used by UCAS in performing the designated FOI function as set out in the designation order. (The relevance of the BBC's coverage under FOIA to this complaint will become clear below).
18. UCAS stressed that the wording of the designation order specifically stated that only functions which are designated as falling within the scope of FOIA are the '*provision and maintenance*' of the central applications and admissions service.
19. UCAS explained that it has number of functions, including but not limited to: '*inform services*', '*search services*', '*apply services*' and '*analytical services*'. It only considers the '*apply services*' to be within the scope of the designated function. The apply services include the common application service via a single gateway; management of information exchange between Higher Education (HE) providers in respect of application level and simple operational summary information essential to provide a central applications and admissions service; the provision of qualifications results and advice provision to both applicants and HE providers on the operation and mechanics of the application and admissions system during a live cycle.

---

<sup>1</sup> [http://www.legislation.gov.uk/ukxi/2011/2598/pdfs/ukxi\\_20112598\\_en.pdf](http://www.legislation.gov.uk/ukxi/2011/2598/pdfs/ukxi_20112598_en.pdf)

20. Furthermore, UCAS argued that not only must the requested information be within the FOI designated function, but the information will only be accessible under FOIA if it relates to a specific institution referenced in the order. Therefore, not all institutions involved in, or in relation to which UCAS exercises its FOI designated function are necessarily covered by FOIA.
21. Consequently, UCAS envisaged a two-part test which must be met before information it holds can be considered to be held under FOIA **at the time of the request:**
  - i) UCAS must be exercising its designated function, i.e. the information is obtained, gathered, held or otherwise used or processed for the provision and maintenance of a central applications and admissions service; **AND**
  - ii) UCAS is doing so in relation to specific institutions which are referenced in the section 5 designation order.
22. However, UCAS argued that in determining whether these steps are met is not necessarily a straightforward matter given the way in which it collects and holds information and the multiple functions such information fulfils at UCAS.
23. UCAS suggested that in considering whether requested information is within or outside the scope of its FOI designated function, the case law generated by the *BBC v Sugar* cases provided a precedent and directly relevant guidance.<sup>2</sup>
24. Moreover, UCAS explained that in applying the principles of the *Sugar* decision, the significance of Parliament's intention of protecting UCAS' commercial activities in the designation order had to be recognised and taken into account (a purpose which UCAS referred to as a 'protective purpose' or 'derogated purpose').
25. At this point, it may be useful at this stage if the Commissioner confirms that in his opinion the Supreme Court found that if information is held by the BBC 'to any significant degree' for its derogated purposes then

---

<sup>2</sup> Mr Sugar submitted a request to the BBC for a copy of the 'Balen' report which reviewed the BBC's coverage of the Middle East, in particular the Israel and Palestine conflict. The BBC always maintained that this report was derogated, and thus was not accessible under FOIA. The BBC's position which was ultimately upheld by the Supreme Court in its judgment [Sugar v BBC \[2012\] UKSC4](#).

the information is outside the scope of FOIA, even if it is held predominantly for other purposes (i.e. non-derogated purposes). In the case of doubt, the test is *'whether there remains any sufficiently direct link between the BBC's continuing holding of the information and the achievement of its journalistic purposes'*.<sup>3</sup>

26. However, UCAS argued that in applying *Sugar* to the requests it received it was not enough for a requestor to show that the requested information is held 'to some significant extent' for UCAS' designated function for it to come within that function and be within the scope of FOIA. This because such an approach would effectively ignore and override the existence of any protective/derogated purpose for which the requested information may also be held. Rather, UCAS argued that the correct approach must therefore determine whether or not the requested information is also held to a significant degree for a protective and derogated function. In other words, it is necessary to focus on whether the requested information is held for the purpose of functions outside the FOIA designation, even when it may also be held for the purpose of the FOIA designated function. In UCAS' opinion, the different drafting approach to the respective designations of the BBC and UCAS as public authorities does not affect this analysis.
27. Consequently, UCAS argued that the correct approach in determining whether requested information is within the scope of FOIA is as follows: (1) to apply the two stage test described above in order to conclude whether the information is potentially within the designation order, and if so (2) to assess whether the requested information is also held to a significant extent for some other (commercial) purpose outside the designation order, which will indicate information likely to be outside FOIA.
28. In order to ensure that the proper balance is reached between FOIA designated information and information derogated from FOIA, as intended by Parliament, UCAS advocated the mechanism of considering the 'immediate object' of holding the information, namely whether for its commercial functions or for its designated public function. Alternatively, UCAS suggested that the Commissioner may wish to determine this by applying the 'dominant purpose' test, to ascertain whether requested information should be within or outside the scope of FOIA, although rejected by the majority in *Sugar*, did find some judicial support from some of the Lords.

---

<sup>3</sup> Paras 104 and 106.



29. UCAS argued that in applying this test, consideration had to be given to the distinction between 'live' and 'historic' data. This was because the immediate objective of much of the information that it holds is likely to change with the passage of time. It explained that it operates on an annual application and admissions cycle where information collected in one year (i.e. one cycle) for the immediate object of the FOI designated function may no longer be held immediately for such function later in that year or in subsequent years. The immediate object or direct link in these circumstances moves away to other non-designated functions, e.g. its analytical services, pursuing UCAS' charitable objectives with the HE sector or for commercial usage of such data.
30. UCAS therefore argued that it could not be said that all information held at any time and to any extent for UCAS' FOI designated function must always be within the scope of FOIA, otherwise what would have been the point of making only this function solely subject to FOIA? Therefore, UCAS argued that only information for the current admissions cycle (i.e. 'live' information) in respect of the FOI designated function and in relation to the specified public authorities would potentially come within the scope of FOIA, and all information for past years should be considered as 'historic' and out of scope.
31. UCAS argued that if Parliament had not intended to protect these future uses of data, it would not have made the section 5 designation order so specific and limited and it would not have deliberately explained that the commercial functions of UCAS were outside FOIA (as specifically acknowledged by the Grand Committee's report to the House of Lords). UCAS therefore explained that in its view the designated function should be limited to the live annual applications and admissions cycle that runs from the beginning of September (when applicants can submit their application to UCAS) and then ending at the beginning of November of the following year (the last point when HE providers can admit an applicant through UCAS).
32. Turning to the specifics of the information the complainant requested, both requests 5 and 6 sought information for the academic years '2009/10 to 2011/12 (to date)'.
33. In relation to the part of the requests seeking information 'to date', UCAS suggested that this could arguably cover the academic years 2012/13 and 2013/14 (the cycle for 2012/13 being live at the time the requests were submitted and 2013/14 being a live cycle at the point at which the Commissioner began considering this complaint in September 2012). With regards to the part of the complainant's request which sought information 'to date' the Commissioner is prepared to accept that the information held by UCAS at the time of the requests for the cycle 2012/13 falls within the scope of the request. However, he does not

accept that the information for the cycle 2013/14 falls within the scope given that this cycle only commenced after the requests were submitted and thus data relevant to this cycle was not held by UCAS at the time of the requests.

34. In relation to the requests, UCAS accepted that live data, i.e. information for the cycle 2012/13, satisfied the two part test but that historic data, i.e. data for the years 2009/10 to 2011/12 did not:
35. With regards to the consideration of whether the data was held to a significant extent for commercial or other non-FOIA purposes, UCAS explained that whilst initially providing the basis for the designated function, once each individual cycle ended the purpose of the data converted to forming the basis of UCAS' other purposes, services and functions of UCAS and UCAS Media, e.g. member services and/or more generally available commercial services. As such, once the live cycle is over, this information was definitely held to a significant extent by UCAS and UCAS Media for its commercial and non-FOIA functions.
36. With regards to the consideration of whether the immediate object of holding the information is for the designated function, UCAS explained that at the time the data was collected the immediate function was indeed the designated function, i.e. the live data was used to provide and maintain an applications and admissions service for HEIs and applicants. However, the historic data is actually held for the immediate objects of UCAS and UCAS Media's commercial and other purposes. This is because with the passage of time the data becomes significantly less important in relation to the provision and maintenance of the central applications and admissions service. That is to say, the information is not necessary or critical for the performance of those functions. Moreover, to the extent that the information is used to enhance the provision and maintenance of the central applications and admissions service, UCAS noted that the data it would use to provide this enhancement would be at a much higher level than that requested here.
37. Finally, with regards to the dominant purpose for which the information is held, UCAS confirmed that the dominant purpose of the historic data is not the designated function. Rather, the dominant purpose of the data is the commercial and other non-FOIA purposes.

#### *The Commissioner's position*

38. The Commissioner agrees with UCAS that its wholly owned subsidiary company, UCAS Media, is completely outside of FOIA given the effect of section 6(1)(b)(ii). In essence this section states that a wholly owned company of a body that it is only a partially covered public authority is not subject to FOIA.

39. Turning to the wording of UCAS' FOI designation, given the way in which the designation order is drafted, the Commissioner agrees with the concept of the two part test as described by UCAS in determining whether any information it holds is held, at the time of the request, for the purposes of FOIA. Furthermore, the Commissioner accepts that consideration needs to be given to what purposes UCAS holds requested information for at the time of a request and that this will involve consideration of what UCAS described as 'live' and 'historic' data. Moreover, the Commissioner agrees with UCAS that the Supreme Court's decision in *Sugar* provides both a precedent and directly relevant guidance in determining whether requested information is held by UCAS for the purposes of FOIA.
40. As noted above, in the Commissioner's opinion the Supreme Court found that if information is held by the BBC 'to any significant degree' for its derogated purposes then the information is outside the scope of FOIA, even if it is held predominantly for other purposes (i.e. non-derogated purposes). In the case of doubt, the test is 'whether there remains any sufficiently direct link between the BBC's continuing holding of the information and the achievement of its journalistic purposes'.<sup>4</sup>
41. Consequently, in applying the principles of the *Sugar* decision to this case, in the Commissioner's opinion the correct approach is as follows:
42. If there is a 'sufficiently direct link' between UCAS' designated FOI function and the requested information, then the requested information will be held by UCAS for the purposes of the FOIA. In the Commissioner's opinion this means that simply because the requested information is held by UCAS for multiple functions, as long as there remains a sufficiently direct link between the requested information and UCAS' designated FOI function, then the information is still held for the purposes of UCAS' designated FOI function. This remains the case even if the dominant purpose of holding the information is not for the designated purpose.
43. The Commissioner's approach clearly diverges from that of UCAS and as a consequence has the potential to bring more information held by UCAS within the scope of FOIA and this includes information that is perhaps potentially (and indeed primarily used for UCAS commercial activities). However, in the Commissioner's opinion his approach takes into account both the principles of the *Sugar* decision and the different ways in which UCAS and the BBC are designated as public authorities under FOIA.

---

<sup>4</sup> Paras 104 and 106.

The Commissioner's approach is also consistent with his position on section 3(2) of FOIA<sup>5</sup> – which covers when information is held by a public authority. The Commissioner's approach to section 3(2) is guided by the Upper Tribunal judgment in *University of Newcastle v ICO and BUAV*<sup>6</sup> and also the Information Tribunal in the cases of *Digby-Cameron and McBride*<sup>7</sup>.

44. UCAS have of course argued that the different way in which the BBC is listed in FOIA does not affect the way the *Sugar* decision applies. The Commissioner respectfully disagrees; rather he believes that it is vital to note the different ways in which the two bodies are actually listed. That is to say the BBC is listed in schedule I of FOIA as a public authority but only in respect of information held for purposes other than its derogated activities. That is to say it is not listed as public authority in schedule I but covered by a section 5 designation order but in respect on one specific function.
45. In the Commissioner's opinion taking into account the way in which the two bodies are listed, for the BBC, the impact of the applying the 'to any significant degree' test has the effect of taking considerable amounts of information **outside** of FOIA. That is to say, as long as requested information is used to any significant extent for the BBC's derogated functions, it falls outside of FOIA. Conversely, for UCAS given the way they are designated a public authority the impact of applying the 'to any significant degree' test has the effect of making considerable amounts of information potentially fall **within** the scope of FOIA. That is say, as long as requested information is used to any significant extent for UCAS' designated function, it falls within the scope of FOIA.
46. Whilst the Commissioner understands that this is not a consequence which UCAS would wish, in his view it is an inevitable result of the manner in which UCAS is actually listed in the designation order and the principle of 'to any significant degree' established in *Sugar*.
47. In taking this approach the Commissioner does not believe that he is ignoring the purposive interpretation of the designation order that UCAS

---

<sup>5</sup> Explained in ICO guidance at [http://www.ico.org.uk/for\\_organisations/guidance\\_index/~media/documents/library/Freedom\\_of\\_Information/Detailed\\_specialist\\_guides/information\\_held\\_by\\_a\\_public\\_authority\\_for\\_purposes\\_of\\_foia.ashx](http://www.ico.org.uk/for_organisations/guidance_index/~media/documents/library/Freedom_of_Information/Detailed_specialist_guides/information_held_by_a_public_authority_for_purposes_of_foia.ashx)

<sup>6</sup> [2011] UKUT 185 (AAC)

<sup>7</sup> EA/2008/0010 and EA/2007/0105

have encouraged him to recognise. Whilst the Commissioner's approach to applying the order inevitably brings within FOIA more information held by UCAS, and this information is potentially held for UCAS commercial purposes, this does not equate to such information being automatically disclosed under FOIA. Rather, UCAS has the option to rely on the exemptions contained in Part II of FOIA withhold the information, not least section 43 the commercial interests exemption. Furthermore, in the Commissioner's opinion consideration also has to be given to the reasons why Parliament decided to list UCAS as a public authority for the purposes of FOIA, albeit only a partially listed one, i.e. to increase openness and transparency so that the public can hold to account those who deliver public services. In the Commissioner's opinion adopting UCAS' approach to determining what information it holds for the purposes of FOIA risks ensuring that so little information is actually potentially covered that this intention of the designation order is not given sufficient consideration.

48. In summary then, the Commissioner believes that the correct test to apply when determining whether UCAS holds information for the purposes of FOIA is to consider whether there is a sufficiently direct link between the requested information and UCAS' designated function. Indeed, as noted above, in the Commissioner's view there may still be a sufficiently direct link between the requested information and UCAS' designated function even if the immediate purpose for which that information is held is not the provision and maintenance of a central applications and admissions service in respect of the institutions referenced in the designation order.
49. In applying this approach to the concept of admissions cycles, the ICO is not persuaded that is reasonable or plausible to argue that as soon a particular cycle ends then all data associated with that cycle automatically becomes 'historic' in the manner described by UCAS. The Commissioner acknowledges that the UCAS has explained that the historic admissions data is not critical and necessary to delivering the current and future applications and admissions service. However, in the Commissioner's opinion this does not mean that admissions data from recent years, such as that which is the focus of these requests, is not used for some element of management planning purposes in order to support the current and future implementation of the designated function. The Commissioner believes that this is the case for the admissions cycles 2009/10, 2010/11 and 2011/12.
50. The Commissioner appreciates that UCAS have argued that such operational functions fall outside the scope of the designation order given that the order quite specifically states that the only function which is designated as falling within the scope of FOIA is the '**provision and maintenance** of a central applications and admissions service' (UCAS'

emphasis). UCAS noted that the designation order does not include any reference to the words 'operation', 'operational' or 'management'. Thus in UCAS' opinion the provision and maintenance of the service should not be interpreted to include any operational functions or processes associated with the provision and maintenance of that service.

51. In the Commissioner's view the distinction which UCAS has described between the provision and maintenance of the service and any operational management decisions is an artificial one. Rather in the Commissioner's opinion the provision and maintenance by UCAS of a central applications and admissions service will, by default inevitably involve operational management decisions. The Commissioner struggles to envisage how UCAS could provide and maintain such a complex administrative system without taking such operational decisions. Moreover the Commissioner simply does not accept that UCAS provides and maintains the application and admissions service for each live cycle in some sort of vacuum that is in no way influenced or guided by the data for cycles from recent years.
52. Consequently, the Commissioner believes that **all** of the information falling within the scope of requests 5 and 6 meets the first limb of the two stage test. For the information for the academic years 2009/10, 2010/11 and 2011/12 this is because although such information is no longer held for the immediate purpose of fulfilling the UCAS' designated function, in the Commissioner's opinion there remains a significant link – of the nature described by him above – between this information and UCAS' designated function.
53. In relation to the second limb of the test, the Commissioner accepts that the only information falling within the scope of requests 5 and 6 which meets this limb is of course the information relating to the specific institutions listed in the designation order. It is therefore this information which the Commissioner believes that UCAS is a public authority for and thus is potentially accessible under FOIA.
54. The Commissioner has therefore gone on to consider whether, under the FOIA, UCAS is under a duty to disclose such information.

## **Request 5**

55. UCAS has argued that as an alternative to its position that the information falling within the scope of request 5 for the years 2009/10 to 2011/12 (and which relates to the HE institutions lists in the designation order) is not held for the purposes of FOIA, it believes that such information is exempt from disclosure on the basis of sections 41(1) (information provided in confidence), 43(1) (trade secrets) and 43(2) (commercial prejudice). It also believes that the information for

the academic year 2012/13 (and which relates to the HE institutions lists in the designation order) is exempt from disclosure on the basis of the same exemptions.

56. The Commissioner has initially considered whether the information for all four of these academic years ('the withheld information') is exempt from disclosure on the basis of section 43(2).

57. Section 43(2) states that:

*'Information is exempt information if its disclosure under this Act would, or would be likely to, prejudice the commercial interests of any person (including the public authority holding it).'*

58. In order for a prejudice based exemption, such as section 43(2), to be engaged the Commissioner believes that three criteria must be met:

- Firstly, the actual harm which the public authority alleges would, or would be likely, to occur if the withheld information was disclosed has to relate to the applicable interests within the relevant exemption;
- Secondly, the public authority must be able to demonstrate that some causal relationship exists between the potential disclosure of the information being withheld and the prejudice which the exemption is designed to protect. Furthermore, the resultant prejudice which is alleged must be real, actual or of substance; and
- Thirdly, it is necessary to establish whether the level of likelihood of prejudice being relied upon by the public authority is met – i.e., disclosure 'would be likely' to result in prejudice or disclosure 'would' result in prejudice. In relation to the lower threshold the Commissioner believes that the chance of prejudice occurring must be more than a hypothetical possibility; rather there must be a real and significant risk. With regard to the higher threshold, in the Commissioner's view this places a stronger evidential burden on the public authority to discharge.

59. In relation to the commercial interests of third parties, the Commissioner does not consider it appropriate to take into account speculative arguments which are advanced by public authorities about how prejudice may occur to third parties. Whilst it may not be necessary to explicitly consult the relevant third party, the Commissioner expects that arguments which are advanced by a public authority should be based on its prior knowledge of the third party's concerns.

*UCAS' position*

60. UCAS has argued that disclosure of the withheld information would be likely to prejudice its own commercial interests, those of UCAS Media and those of the HE institutions to whom the data relates. UCAS has provided the Commissioner with detailed submissions to support its position; the Commissioner has summarised these below.
61. UCAS explained that as a registered charity it is heavily reliant on UCAS Media, its wholly owned subsidiary, to market data compiled through and data supplied by UCAS in order to raise much needed funds which UCAS Media then donates to UCAS via gift aid. As such, UCAS Media is supplied with a high degree of exclusivity in relation to data which UCAS collects, giving it a competitive advantage in the publications, research and analysis business market in which it operates compared to actual or would be competitors in that market. UCAS explained that the funds donated to it by UCAS Media are a vital means by which it pursues its charitable objectives, which go beyond the 'Apply services', which are the services which are potentially caught by the designation order.
62. Consequently, any negative impact in the level of funds which UCAS Media is able to gift aid to UCAS would seriously undermine UCAS' ability to continue to fulfil its various charitable objectives and to provide its various services without having to seek considerable additional funding from applicants and institutions or by requesting specific funding direct from government.
63. UCAS noted that approximately one third of its income comes from money which is donated to it by UCAS Media. Therefore, UCAS explained that any commercial prejudice it would suffer is inextricably linked to the commercial prejudice that UCAS Media would suffer following disclosure of the withheld information given that the profits made by UCAS Media form a significant part of the funding relied upon by UCAS.
64. With regards to specific prejudice that would be likely to occur if the withheld information was disclosed, UCAS explained that this information was most closely aligned to two particular products and services which UCAS Media currently offered.
65. Firstly, UCAS explained that in essence data contained in the withheld information relating to applications and acceptances at every course at every university is data which is contained in UCAS Media's Market Scan product. This is a product that UCAS Media sells to universities and colleges that are members of UCAS to enable them to monitor their own course performance trends over time. The output of the Market Scan product is a key benefit to the UCAS members as without this product being provided centrally by UCAS each member HE institution would



have to individually collect and analyse the information at far greater aggregate cost, a cost which is significantly reduced through the exclusive access to Market Scan data provided only to UCAS members at a fee.

66. As such, if this information were to be made available as a result of a FOI request to UCAS, it would undermine the exclusivity offered to UCAS members in relation to the data. This would result in UCAS losing fees paid by members for such a service as well as loss of income from sales of the product by UCAS Media, thereby financially impacting on UCAS' income. In fact, it would enable the complainant, and indeed the world at large, to replicate Market Scan for their own business purposes. This would provide a significant competitive advantage to UCAS Media's rivals who also market services and products relating to HE applications and admissions.
67. In confidence, UCAS provided the Commissioner with details of the actual sales for the current financial year, along with further projected sales, of the Market Scan product in order to support its position that disclosure of the withheld information would undermine both the commercial interests of UCAS and UCAS Media.
68. Secondly, UCAS explained that in addition to the Market Scan product, the application and acceptance data at course level covered by request 5 also formed the basis of the majority of UCAS Media's enquiries for Bespoke Data Analysis. Around 40 to 50 per cent of these enquiries analyse data relating to application and acceptance ratios across competitor institutions.
69. UCAS explained that it was important to note that the data provided in response to such enquiries does not include data to the level of granularity sought by request 5, i.e. each course for each institution. Rather, the data is aggregated into 'subject groups' or 'subject levels', but the basis of these aggregated data sets is the raw data contained within the withheld information and which forms the building blocks from which UCAS Media carries out its bespoke analysis. Consequently, disclosure of the withheld information would, in essence, provide the tools used by UCAS Media to respond to nearly half of all paid enquiries received by UCAS Media. Therefore there would be no need for HE institutions and companies to pay UCAS Media to provide the services and analysis which it currently sells, as third party requestors would be able to access the information themselves and perform their own analysis free of charge. This would not only undermine UCAS Media's business model, but would also have a significant impact on the commercial profitability which in turn would significantly affect the funding donated to UCAS through gift aid.

70. Again, in confidence, UCAS provided the Commissioner with details of the sales to date for the current financial year, as well as projected sales, for UCAS Media's Bespoke Data Analysis in order to support its position that disclosure of the withheld information would undermine both the commercial interests of UCAS and UCAS Media.
71. UCAS explained that although it had provided the Commissioner with detailed submissions which focused on two of UCAS Media's products, Market Scan and Bespoke Data Analysis, this was simply because the information withheld information was most closely aligned with the data provided by these two products. However, UCAS emphasised that it was important to realise that UCAS Media marketed a number of other data products all of which used some of the basic raw data contained within the withheld information in order to build and provide other data sets which were equally valuable to UCAS Media.
72. Furthermore, UCAS argued that some of the withheld information is also commercially sensitive to the HE institutions which are caught within the designation order and whose information has been provided to UCAS. UCAS explained to the Commissioner that it had consulted a representative sample of HE institutions members in relation to the complainant's requests.
73. The majority of these members objected to disclosure of the withheld information because it would be likely to prejudice the commercial interests of each of them. In summary, the HE institutions emphasised the importance of the application and acceptance data at course and institution level to their business of recruiting and attracting students. UCAS noted that it was clear that the HE institutions considered themselves to be organisations with commercial interests. Disclosure of withheld information would allow the HE institutions' competitors an otherwise unavailable insight into their commercial operations and health which would be likely to be used to competitive advantage. For example, the withheld information would reveal application and acceptance numbers and these are considered to be a key indicator of the popularity, and thus the market strength, of a HE institution and its marketing strategy.
74. UCAS highlighted the fact that the HE institutions considered such information to be particularly sensitive at a time of increasing turbulence in the economy and a shift to an ever more market driven higher education sector. The HE institutions emphasised the commercial prejudice would particularly arise with competitor HE institutions not caught within the scope of UCAS' designation order as such competitors data is not potentially accessible under FOIA by virtue of an FOI request to UCAS. UCAS explained that some of the HE institutions went on to distinguish between live and historic data with the former considered

more sensitive, albeit that it recent historic data would remain sensitive as it would still allow competitors (including private HE institutions not subject to FOIA) to alter their behaviours and tactics to attempt to attract and divert students business and income that would have otherwise attended their institution. The likelihood of this occurring was considered high given the level of granularity of the data requested.

75. Furthermore, the HE institutions explained to UCAS that they had been advised that the higher education sector, due to changes to the sector, could be seen as a competitive market, with the HE institutions involved bound to comply with competition laws. Accordingly, concerns had been raised to the extent that any HE institutions who held the requested granular level on itself, it would not be able to disclose it for use by its competitors without risk of breaching competition laws due to market sensitivity. It was suggested that it would seem to be circumventing such competition laws if such data could accessed from UCAS and disclosed to competitors.

#### *The Commissioner's position*

76. With regard to the first criterion of the prejudice test set out at paragraph 58, the Commissioner is satisfied that this is clearly met given that the harm which is envisaged to UCAS, UCAS Media and the HE institutions clearly relates to the interests which section 43(2) is designed to protect.
77. With regard to the second limb, the Commissioner is also satisfied that there is a causal link between disclosure of the withheld information and the prejudice which would allegedly occur to UCAS, UCAS Media and the HE institutions. This because the Commissioner accepts that it is logical to argue that if disclosure of the withheld information would result in information being placed into the public domain which UCAS Media had previously charged HE institutions and other third parties to access, it follows that this would undermine UCAS Media's competitive position by reducing its revenue. By implication this would also potentially undermine UCAS' commercial interests. In relation to the HE institutions, the Commissioner accepts that elements of the withheld information clearly has the potential to be useful to competitor institution in the manner described and thus could place each institutions at a commercial disadvantage. In relation to all parties, UCAS, UCAS Media and the HE institutions the Commissioner is satisfied that the resulting prejudice would clearly be of substance given the amounts of money involved, i.e. UCAS Media's revenue stream and the tuition fees paid to HE institutions.
78. With regard to the third limb, the Commissioner notes that UCAS has argued that the exemption is engaged at the lower level of likelihood,

i.e. that prejudice would likely to occur, in relation to the interests of all relevant parties. Having taken into account UCAS' submissions set out above, the Commissioner has no hesitation in concluding that disclosure of the withheld information would be likely to harm UCAS Media's, and by implication UCAS' commercial interests. The Commissioner believes that these submissions demonstrate that the risk of such prejudice occurring is clearly one that is real and significant and certainly one that is more than a hypothetical possibility. The Commissioner has reached in light of the fact that disclosure of the withheld information would effectively place into the public domain information which forms the basis of two specific products that UCAS Media currently markets commercially, as well as placing into the public domain significant building blocks associated with a number of other products and services that UCAS Media charges for.

79. The Commissioner is also satisfied that disclosure of the withheld information would also be likely to prejudice the commercial interests of the HE institutions. This is because disclosure of the information would provide **all** HE institutions, not just those falling within the scope of the designation order, with an insight into the market strength of competitor HE institutions which are listed in the designation order. The Commissioner believes that the increasingly competitive nature of the higher education sector, along with the granularity of the information requested, means that the likelihood of prejudice occurring to the relevant HE institutions is one that represents a real and significant risk.
80. The Commissioner is therefore satisfied that UCAS can rely on section 43(2) as a basis to not to disclose the withheld information.

### **Public interest test**

81. Section 43(2) is a qualified exemption and therefore the Commissioner must consider the public interest test contained at section 2 of FOIA and whether in all the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

### **Public interest arguments in favour of disclosing the withheld information**

82. The complainant argued that it was important to remember that the particular data he had requested was not the exclusive property of UCAS. He suggested that he could equally obtain this data from the individual HE institutions, who he suggested would not necessarily apply section 43(2). The complainant argued that obtaining the data from individual HE institutions places a high cost on the higher education system – 150 separate FOI requests – as opposed to one and he would

like to avoid imposing that burden system on the higher education system as a whole.

83. The complainant noted UCAS' argument that it could not have been Parliament's intention to sacrifice UCAS' commercial revenues by bringing UCAS (partially) within the scope of FOIA. The complainant argued that if it had been Parliament's intention that UCAS would continue to withhold its data, and only release what it wanted, when it wanted, then there would have been no need or point of it even being covered by FOIA. The complainant noted that the coalition government was committed to 'open data' and in his view it was entirely likely that the effect it wished to achieve was to open up UCAS data for greater public benefit. By seeking to obtain this information from UCAS the complainant emphasised that he was only seeking to obtain information that he could already obtain from HE institutions covered by FOIA but with greater efficiency and at much lower cost to the public realm.
84. The Commissioner would also add that there is a disclosure of the withheld information would provide applicants with a greater degree of understanding as to the choices of courses and institutions made by applicants in recent years.

### **Public interest arguments in favour of maintaining the exemption**

85. In its submissions to the Commissioner, UCAS set out the following reasons why it believed that disclosure of the withheld was not in the public interest:
86. There was a particularly strong public interest in ensuring that UCAS and UCAS Media's commercial and financial interests were not harmed, particularly because disclosure would unfairly distort competition between UCAS, UCAS Media and its competitors who are not themselves subject to FOIA.
87. UCAS argued that the significant likely impact on its financial position would mean that it would also seriously inhibit its ability to fulfil its charitable objectives. This financial deficit would have to be recovered by increasing the fees charged to applicants using the UCAS Apply services; increasing the membership fees of institutions which belong to UCAS; and/or obtaining funding directly from government. UCAS argued that none of these options was in the public interest given the current economic climate and the already tight squeeze being faced by students and HE institutions in particular given the recent changes to University fees.
88. UCAS argued as it is presently not publically funded through any grants or other money provided by government and as such, the usual

argument that transparency is necessary to understand the way in which public funds are spent is not a factor relevant in this case.

89. UCAS emphasised that disclosure of the withheld information would not in fact further the public's understanding of how the central applications and admissions service which is provided or maintained by UCAS.
90. UCAS argued that it was not in the public interest that HE institutions would be likely to suffer commercial damage from competing HE institutions as they compete for decreasing numbers of increasingly selective students.
91. It was not in the public interest to disclose information which at this granular level could not lawfully be disclosed by any HE institutions without potentially infringing competition law. Furthermore, it was not in the public interest that UCAS would be in breach of contract, and of confidence, with the HE institutions if it were to disclose their confidential information. Moreover, it was not in the public interest to encourage unlawful behaviour and/or breach of confidence.

### **Balance of the public interest arguments**

92. The Commissioner believes that the argument that disclosure of the withheld information would provide those considering higher education with a greater degree of understanding of the popularity of particular courses and institutions should not be dismissed lightly. As is evident from UCAS' submissions, the higher education sector is becoming an increasingly market orientated one, a notable feature of this being the higher tuition fees that students are having to pay. In the Commissioner's opinion there is a strong public interest in potential students being able to make decisions about their choice of HE institution, and their choice of course, on the basis of reliable and informative data.
93. With regards to the complainant's argument that he could obtain this information from the individual institutions, the Commissioner notes that when consulted by UCAS a representative sample of HE institutions argued that disclosure of the information sought by request 5 would be likely to prejudice their commercial interests given the granularity of information sought. Therefore, whilst the Commissioner understands that the complainant has, for a number of years, been obtaining datasets from HE institutions under FOIA *similar* to request 5, if the institutions were asked to disclose the exact information sought by request 5 they would be very likely to refuse to disclose it on the basis of section 43(2). Therefore whilst the Commissioner recognises the logic of the complainant's line of argument, i.e. that it is in the public interest to make UCAS provide him with this information rather than burden

each of the individual HE institutions, this argument is significantly undermined by the fact that institutions would, in reality, be very likely to refuse a request which sought the same information as request 5.

94. With regards to attributing weight to the arguments in favour of maintaining the exemption, the Commissioner agrees with UCAS that there is a compelling public interest in ensuring that its charitable activities are not undermined. Furthermore, the Commissioner also agrees that it would be strongly against the public interest if, in order to compensate for the loss of revenue from UCAS Media, UCAS sought to increase the fees it charged to HE institutions and/or applicants. Moreover, it would not, in the Commissioner's opinion, be in the public interest for UCAS to have to seek funding from government in order to offset any lost revenue given the financial pressures which public finances are under.
95. The Commissioner also believes that there is a public interest in ensuring that HE institutions are able to compete in a fair and equal market and it would not be in the public interest to distort that market by providing HE institutions not covered by the designation order with an unfair advantage over HE institutions who are covered.
96. In the Commissioner's opinion, UCAS' arguments regarding competition law, and confidentiality are not directly relevant to the consideration of the public interest test under section 43(2) of FOIA given such factors are not inherent in the exemption. Therefore he has not placed any weight on these factors in considering the balance of the public interest test.
97. In conclusion, the Commissioner is of the opinion that the public interest favours maintaining section 43(2). This is not to dismiss the benefits that higher education applicants could derive from the data when making their choice of course and institution. However, given that the negative consequences of disclosing the withheld information are numerous, and widespread, the Commissioner believes that considered together, they mean that the public interest favours maintaining the exemption.
98. In light of the Commissioner findings in relation to section 43(2) he has not considered whether the withheld information is exempt on the basis of section 41(1) or section 43(1).

## **Request 6**

99. UCAS has argued that as an alternative to its position that the information falling within the scope of request 6 for the years 2009/10 to 2011/12 (and which relates to the HE institutions listed in the

designation order) is not accessible under FOI because UCAS is not a public authority for such information, it has argued that the provision of this information under FOIA would amount to the creation of new information. UCAS noted that under FOIA public authorities are not required to create information to answer a request.

100. Similarly, whilst UCAS accepts that it is a public authority for the information relating to the academic year 2012/13 (and which relates to the HE institutions listed in the designation order), again providing such information would involve the creation of new information and it was not obliged to do this to comply with a FOI request.
101. The Commissioner has summarised both complainant's and UCAS' position on this issue before setting out his findings with regards to whether provision of the requested information would involve the creation of new information.

#### *The complainant's position*

102. The complainant disputes UCAS' view that providing the requested information would involve the creation of new information, and indeed its implication that the requested information only 'may' exist. He argued that there could not be any doubt as to whether the information existed, and indeed could be easily accessed and provided to him given that UCAS supplies HE institutions with predicted grades and then provides them with final grades. The complainant also suggested that he was happy to be provided with the raw data for his request and he would then analyse this; he did not therefore require UCAS to undertake any data matching, extraction or analysis.

#### *UCAS' position*

103. In its internal review in relation to request 6 UCAS explained that the information requested was contained in a variety of databases and in different formats within each database. To provide the requested data would involve considerable cross database matching, extraction and analysis and UCAS would require specialist bespoke software to facilitate this; it was simply not possible to supply the requested data as separate datasets without undertaking this work. UCAS explained that it did not have bespoke software capable of undertaking these tasks nor was it aware of any 'off the shelf' software capable of performing these tasks.
104. The Commissioner asked UCAS to provide him with further details of this process. UCAS explained that in order to provide the complainant with the information sought by request 6 would involve very complex judgements by staff with specialist knowledge. UCAS outlined the processes involved as follows:



105. The information requested was stored in multiple places and in different databases. UCAS would need to draw together these different types of data from across its data sources to form complex links between them.

106. When applying to a UK HE institution through UCAS, applicants have to complete an application form which includes details of their education and qualifications. Applicants must also provide a reference from a suitably qualified individual. In addition to commenting on an applicant's suitability, the referee is asked to supply predicted grades for every qualification an applicant enters as 'pending'. This is done via a 'drop done' list or 'free text', depending on the qualification and the application cycle it was entered in. Therefore to provide the information sought by request 6 would require UCAS to write separate bespoke codes involving complex judgements and links to be made back to the achieved qualification to satisfy the request.

107. UCAS explained that the tasks that would require especially complex judgements include:

- Writing, testing and executing bespoke code to link the Level 3 qualifications and subject achieved by a pupil with the corresponding "systematically predicted qualification".<sup>8</sup>
- Writing, testing and executing bespoke code to link the Level 3 qualifications and subject achieved by a pupil with the corresponding "unsystematically predicted qualification";
- Writing, testing and executing bespoke code to link the "systematic" and "unsystematic" predicted grades in 1 and 2 above against qualifications and subjects achieved;
- Handling cases where the above codes will not link achieved and predicted grade because there has been some minor or significant "mismatch" between the two e.g. a qualification is not taken or a different one taken in lieu or where other personal information has been changed by the applicant themselves. This accounts for up to 20 per cent of all grades;
- Writing, testing and executing bespoke code to suppress information that would unfairly identify an applicant or referee.

---

<sup>8</sup> UCAS explained that a 'systematically predicted qualification' was one where a grade had been entered from a 'drop list' and a 'unsystematically predicted qualification' was one that had been entered in a free text box.

108. UCAS explained that to collate applicants' qualifications and grades would require the linking of 13 tables and that to do the same for predicted grades would involve links between 8 tables. With regards to request 6 and the three academic years 2009/10 to 2011/12, UCAS estimated there to be 6 million Level 3 predicted and actual grades that would require linking. It noted that providing the separate tables to the complainant as 'raw data' would pose significant issues in terms of constructing a platform for secure transmission and would not allow him to create the links between the separate pieces of information that form the basis of his request.
109. In response to the complainant's assertion that it did hold the requested information, it explained that the provision of this information to HE institution takes place as part of an operational process, either as a data transaction via its online products and services (e.g. passing an exam result when it is received to a HE institution electronically) or through a 'live view' of the status of each allocation (e.g. to allow Customer Service Advisers to support institutions and applicants via its Contact Centre). UCAS emphasised that this did not mean that the information is subsequently held and retrievable in analytical form that can be used to derive the information requested. For example, institutions are provided with information on predicted grades and achieved grades at different times and through different means.
110. In support of its position UCAS emphasised that it had not sought to argue that information falling within the complainant's requests 1 to 5 was not held because it would involve the creation of new information. UCAS explained that this was because the other requests did not require complex judgments as the information is already held on mainly existing datasets.

#### *The Commissioner's position*

111. In the Commissioner's opinion, in most cases when information is held in electronic files and can be retrieved and manipulated using query tools or language within the software, that information is held for the purposes of FOIA. The use of query tools or languages does not involve the creation of new information. Their use should be viewed simply as the means of retrieving information that already exists electronically.
112. However, what is important is determining whether information is held is the level of judgment that needs to be exercised in retrieving the information. If answering the request involves exercising sophisticated

judgement, in the Commissioner's opinion the information will not be held. But if only a reasonable level of judgement is required to identify the relevant building blocks, or manipulate those blocks, the information will be held.<sup>9</sup>

113. In light of UCAS' submissions to him the Commissioner is prepared to accept that in this case the processes of retrieving the requested information do require complex and sophisticated judgements and not simply reasonable judgements or just the application of certain skills. In the Commissioner's view this is evidenced by the sheer number of tasks that UCAS would need to undertake, all of which involve specialist staff writing, testing and executing bespoke code. Furthermore, the Commissioner believes that it is reasonable to place weight, as UCAS has invited him to do, on the fact that it considers the tasks involved to require complex judgements and this is based on its own knowledge of its experience of manipulating and working with its own databases. In the Commissioner's view that the fact that UCAS accepts that the provision of the other datasets requested by the complainant would not require the creation of new information supports this approach. The Commissioner has therefore concluded that UCAS does not hold the scope of request 6 because providing this information would require the creation of new information, which under FOIA, UCAS is not obliged to do.

---

<sup>9</sup> This position is set out in the Commissioner's guidance [Determining whether information is held](#)

## Right of appeal

---

114. 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: 0116 249 4253

Email: [informationtribunal@hmcts.gsi.gov.uk](mailto:informationtribunal@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm](http://www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm)

115. 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.

116. 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 .....**

**Steve Wood**  
**Head of Policy Delivery**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**