

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 24 March 2024

Public Authority: The Governing Body of the University of Oxford

Address: University Offices, Wellington Square, Oxford, OX1 2JD

Decision (including any steps ordered)

1. The complainant has requested the University of Oxford (the University) to disclose internal correspondence held in relation to its handling of their first information request. The University disclosed some information but withheld the remainder, citing sections 36(2)(b)(i) and (ii) and 40(2) of FOIA.
2. The Commissioner's decision is that the University is entitled to refuse to disclose the remaining withheld information in accordance with sections 36(2)(b)(i) and (ii) and 40(2) of FOIA. He finds that the University interpreted the information request correctly and what information falls in scope and that it complied with section 10 of FOIA, by responding to the request promptly and within 20 working days of receipt.
3. The Commissioner does not require further steps to be taken.

Request and response

4. On 3 August 2023, the complainant wrote to the University and requested information in the following terms:

"Under the provisions of the Freedom of Information Act (FOIA) (2000), I hereby issue a request for copies of all internal

correspondence, documents, opinions of the qualified person, etc. that you hold concerning the handling of my recent FOI Request, with reference 202306/554...”

5. The University responded on 4 September 2023. It disclosed some information but withheld the remainder citing sections 36(2)(i) and (ii) 40(2) of FOIA.
6. The complainant requested an internal review on 11 September 2023.
7. The University carried out an internal review and notified the complainant of its findings on 16 October 2023. It upheld the application of the exemptions initially cited.

Scope of the case

8. The complainant contacted the Commissioner to complain about the way their request for information had been handled. The complaint was accepted for full investigation on 3 November 2023.
9. In correspondence to the Commissioner the complainant stated that they required the Commissioner to make a determination of the following matters:
 - (a) While the request was answered within 20 working days, it was responded to on the last day. They dispute whether the response was provided “promptly” as outlined in Section 10 of FOIA.
 - (b) They consider the request was sufficiently broad in scope to capture external correspondence with bodies like the Commissioner.
 - (c) They wish to challenge the application of section 36(2)(b)(i) and (ii) to the withheld information.
 - (d) They wish to challenge the application of section 40(2) on the basis that it has taken a blanket approach to its application. They consider the email addresses of senior staff should be disclosed and that the University should consider the withheld information on a case by case basis, rather than applying a general rule of thumb that the personal data of those employees under Head of Department is exempt and the personal data of those employees of that level and above should be disclosed. They also consider the University should contact all those referred to in the withheld information for their consent.

10. The Commissioner's investigation is limited to elements a) to d) above. He will now address each in turn, in the order detailed above and in the complainant's submissions to him.

Reasons for decision

Section 10 – Time for compliance with request

11. Section 10 states that a public authority must comply with section 1(1) promptly and in any event no later than 20 working days following the date of receipt.
12. The complainant acknowledges that the University responded on 20th working day but disputes that it responded "promptly".
13. The University explained how at the time of the request a key member of staff within its FOIA function was out of the office due to sickness. The request (and the complainant's earlier request) coincided with a particularly busy period for the team, as it had received a particularly large volume of subject access requests from students regarding comments on their exam scripts. In June and July 2023 the University also received an increased volume of requests likely linked to marking and assessments. It stated that given the caseload at the time, it had to take full advantage of the entire statutory timeframe stipulated by FOIA.
14. The Commissioner is satisfied that given the circumstances at the time of the request, the University responded to the request as quick as it was able to. It was a key member of staff down and had increased volumes of requests. He is therefore satisfied that the University has complied with section 10 of FOIA.

Scope of the request

15. The complainant believes the request encompasses external correspondence with bodies such as the Commissioner. The University disagrees and states that the request is clearly worded and specifically asks for copies of all internal correspondence. Any external correspondence is outside the scope of the request.
16. The Commissioner considers the request is clearly worded and it does specifically ask for internal correspondence. The use of the word internal has limited the scope of the request to that correspondence and the Commissioner is satisfied that this is the only reasonable interpretation. If the request had been worded so as to ask for all correspondence i.e. without the word "internal", it would have incorporated both internal and external correspondence and the University would have been compelled

to consider both. But it is not and the University and the Commissioner are bound by the wording of the request and what a reasonable and objective reading of that request is. If there was more than one reasonable or objective reading of the request, the University would be obligated to seek clarification and proceed with the complainant's interpretation. But again this is not the case here.

17. The Commissioner is therefore satisfied that the University has interpreted the information request correctly and complied with its obligations under FOIA.

Section 36 – effective conduct of public affairs

18. The withheld information in relation to this request is extracts of the withheld information addressed under case reference IC-268243-D3G7 and the Commissioner's decision notice of 24 March 2024, which was contained within the submissions to the University's qualified person for the purposes of establishing if this exemption applied. Case reference IC-268243-D3G7 and its associated decision notice addresses the complainant's first request, which was made on 9 June 2023.
19. The request being considered here is the complainant's second request to the University dated 3 August 2023, a meta request concerning how their first request was handled.
20. The university has said that the circumstances at the time of this request were the same as those for the complainant's first request. Only just short of two months had passed and the application of section 36(2)(b)(i) and (ii) of FOIA remained the same. As did the consideration of the public interest test.
21. The Commissioner notes that the withheld information here has already been considered in his decision notice of 24 March 2024. There is no need to repeat those arguments here. Section 36(2)(b)(i) and (ii) applies and the public interest rests in maintaining the exemption.

Section 40 – personal data

22. Again the basis for withholding personal data in relation to this second request is the same as the University's approach and decision in respect of the complainant's first request. The matter has already been considered and determined in the Commissioner's decision notice of 24 March 2024. Section 40(2) of FOIA applies.
23. It may be that there are a few different data subjects in this case. But the principles applied by the University when deciding what can and what cannot be disclosed are the same for both requests – it has withheld any personal data relating to staff under the Head of

Department level and withheld the email addresses of senior staff. The Commissioner has upheld the University's application of section 40(2) of FOIA. The decision notice of 24 March 2024 should be referred to for the relevant analysis.

Right of appeal

24. 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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

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

25. 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.
26. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Samantha Coward
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