

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

### **Decision notice**

**Date:** 27 March 2024

**Public Authority:** The Governing Body of Cranfield University  
**Address:** Cranfield  
Bedford  
MK43 0AL

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

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1. The complainant has requested communications between members of the University Executive of Cranfield University ('the University') and the Universities & Colleges Employers Association. The University disclosed some relevant information and withheld the remainder under section 41 of FOIA, which concerns information provided in confidence. It subsequently also applied section 40 and 43 to the withheld information, which concern personal data and commercial interests respectively.
2. The Commissioner's decision is that the University doesn't hold the requested information for the purposes of FOIA and is entitled to rely on section 3(2)(a) of FOIA to refuse the request.
3. It's not necessary for the University to take any corrective steps.

#### **Request and response**

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4. The complainant made the following information request to the University on 18 August 2023:

"Under the provisions of the FOIA 2000, I would like a digital copy of:

A.- Any received or sent communications between the following two parties and subject to the conditions explained afterwards:

Party 1: UCEA (the term UCEA shall be understood comprehensively, including but not limited to their regular updates, exceptional updates, consultation queries, matters related to the UCU dispute, etc.)

Party 2: Any of: Karen Holford, Philip Aspinall, Gregor Douglas, Helen Perkins, Ian Sibbald, Leon Terry, and Sean Tyrrel.

A1.- When fulfilling this request, please include any follow up discussions between members of your institution that arise upon receipt of a communication from Party 1. This can be understood as e-mail chains, forwarding UCEA e-mails, internal replies or memorandums, etc.

A2.- Please limit the search and disclosure to events that took place after the 1st of January, 2023."

5. The University responded on 18 September 2023; it released some information and withheld the remainder under section 41 of FOIA. The University confirmed that position in its internal review of 5 October 2023.
6. In light of a number of decisions he's made in cases that concern substantially similar requests to other universities, the Commissioner invited the University to re-consider whether it holds the information requested in this case under FOIA. The University directed the Commissioner to his decision in IC-260096-P5V9<sup>1</sup> and advised that it considered that it did hold relevant information and that some of it engaged section 41 of FOIA, and also sections 43 and 40.

## **Reasons for decision**

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7. This reasoning will focus first on whether the University holds the information requested on 18 August 2023 under FOIA. If necessary, the Commissioner will also consider exemptions the University has applied to the information.
  8. Under section 1(1) of FOIA a public authority must confirm whether it holds information that's been requested and communicate the information to the applicant if it's held and isn't exempt information.
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<sup>1</sup> <https://ico.org.uk/media/action-weve-taken/decision-notice/2024/4028095/ic-260096-p5v9.pdf>

9. Section 3 sets out the circumstances in which information is considered to be 'held' for the purposes of FOIA. Section 3(2)(a) states that a public authority holds information if it's held by the authority, "otherwise than on behalf of another person."
10. The Commissioner interprets the phrase "otherwise than on behalf of another person" to mean that a public authority holds information for the purposes of FOIA if it's held to any extent for its own purposes.
11. The request in this case relates to correspondence to the Universities & Colleges Employers Association (UCEA). It's substantially similar to a request submitted to AECC University College, reference [IC-269880-H3H4](#).
12. From this earlier decision, and other similar cases, the Commissioner understands that membership of UCEA is voluntary, and the organisation provides its member institutions with advice and guidance on all employment and reward matters relevant to the UK Higher Education sector.
13. Membership is held at organisational level and enables the key nominated individuals in each organisation to participate and have access to UCEA materials. The key nominated individuals are typically the Vice-Chancellor/head of organisation, such as members of the University Executive in this case.
14. As in the earlier cases, the Commissioner understands that the requested correspondence concerns the University Executive's membership of UCEA, rather than any other position the individuals hold at the University. The University wouldn't use any such information - correspondence - for its own separate purposes.
15. For the reasons he explained in his earlier decisions, the Commissioner is satisfied that the University doesn't hold any relevant information for its own purposes. Any such relevant information held would be private communications between the individuals referenced in the request and the UCEA.
16. The Commissioner is satisfied that the University doesn't hold any information relevant to the request for the purposes of FOIA and, therefore, it's entitled to rely on section 3(2)(a) of FOIA to refuse the request. It's therefore not necessary to consider the University's application of any exemptions to information it withheld.

17. The information requested in IC-260096-P5V9 was a copy of a particular document, the 'UCEA Code for Participating Employers'. The Commissioner found that Liverpool Hope University was entitled to withhold that information under section 41 of FOIA. The information in the earlier case is somewhat different from the information requested here. Moreover, the Commissioner isn't bound by his decisions in other cases, and he's satisfied that, in the current case, the requested information isn't held.

## **Right of appeal**

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18. 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](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

19. 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.
20. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

**Cressida Woodall**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**