

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 10 February 2020

**Public Authority:** The Governing Body of Jesus College

**Address:** Turl Street  
Oxford  
OX1 3DW

### Decision (including any steps ordered)

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1. The complainant has requested a list, complete with the address and/or postcode, of all the land and property owned by the Governing Body of Jesus College (Jesus College).
2. Jesus College released some of the requested information but withheld the remainder under section 21(1) of the FOIA, as it considered this information to already be accessible to the complainant by other means.
3. The Commissioner's decision is that Jesus College can rely on section 21(1) of the FOIA to withhold some of the information the complainant has requested, as it is accessible to him by other means. However, Jesus College breached section 1(1), section 10(1) and section 17(1) as it did not confirm whether it held the requested information, provide the requested information, or provide a refusal notice to the complainant within 20 working days.
4. The Commissioner does not require any further steps to be taken as a result of this decision notice.

### Request and response

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5. On 27 February 2019, the complainant wrote to Jesus College and requested information in the following terms:

*"A list, complete with the address and/or postcode, of all the property the college owns"*

*Another list, complete with the address and/or postcode, of all the land the college owns"*

6. Jesus College responded on 8 March 2019 as follows:

*"As we comply with Land Registry requirements and the information you ask for is publicly available via the Land Registry we direct you to the Land Registry for information regarding land/property ownership by Jesus College"*

7. On 16 May 2019, the complainant again requested the above information and stated the following:

*"I appreciate I sent the same FOI request earlier this year. I should have appealed but failed to do. Apologies. You can either treat this as an appeal (I believe that is your choice) or as a new request entirely. Please tell me what you want to treat this as."*

*Earlier this year, the college told me I should apply to the Land Registry for information but as I don't know how many buildings or pockets of land the college owns, that could become prohibitively expensive. In the spirit of the Freedom of Information Act, I'd appreciate if my request could be looked at again."*

8. Jesus College responded on 3 June 2019 as follows:

*"Further to your repeated request (May 16<sup>th</sup> 2019), I refer you to my previous answer to your query of 27<sup>th</sup> Feb.... The information you require is in the public domain, and available via the Land Registry"*

## **Scope of the case**

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9. The complainant contacted the Commissioner on 5 June 2019 to complain about the way his request for information had been handled.
10. In his submissions to the Commissioner, the complainant has explained that because he has asked for the requested information twice and had got the same answer, he is of the view that requesting an internal review of his most recent request would be pointless.
11. It is noted that an internal review has not been carried out in this case. However, the Commissioner does have discretion to accept a complaint for full investigation without an internal review and she exercised her discretion in this case. This is because she felt there would be no benefit in asking the complainant to start the process when he is likely to get the same answer a third time.
12. Before the Commissioner started her investigation, Jesus College wrote to the complainant and the Commissioner on 25 June 2019 to explain

how Jesus College deals with requests of this nature. The Commissioner understands that Jesus College voluntarily registered its title of the land and property it owns, except the historic first and second quad (the main address), with Her Majesty's Land Registry (the Land Registry). It stated that registering the titles with the Land Registry enables any member of the public to establish what property Jesus College owns by searching the register by name, which it advised will cost about £20. It has confirmed that the List is altered every time Jesus College makes a registerable transaction and therefore it relies on the List rather than maintaining its own list.

13. The complainant believes that requesting Jesus College's entries from the Land Registry would cost him substantially more than the £20 that Jesus College has suggested it would cost. He also understands that Jesus College owns several pieces of land in Wales and several buildings in Oxford, and therefore believes that paying for every title register from the Land Registry for £3 a document would result in the cost rapidly increasing.
14. The Commissioner therefore considers the scope of this case is to determine whether Jesus College has correctly applied section 21 of the FOIA to withhold the information.

## **Reasons for decision**

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### **Section 1 – general right of access**

15. Section 1(1) of FOIA states any person making a request is entitled to be told whether the information they have asked for is held and, if so, to have that information communicated to them, subject to the application of any exemptions that are appropriate.

### **Section 21 – information accessible to the applicant by other means**

16. Section 21(1) of the FOIA provides that a public authority is not obliged to provide information under section 1 of the FOIA if that information is reasonably accessible to the complainant by other means.
17. Section 21 provides an absolute exemption. This means that if the requested information is held by the public authority, and it is reasonably accessible to the applicant by other means, it is not subject to the public interest test.
18. In order for section 21 to apply there should be another existing, clear mechanism by which the applicant can reasonably access the requested information outside of the FOIA. Furthermore, for section 21 to apply, it

is necessary to consider whether the entirety of the requested information is reasonably accessible to the applicant.

19. Information is only reasonably accessible to the applicant if the public authority:
  - knows that the applicant has already found the information; or
  - is able to provide the applicant with precise directions to the information so that it can be found without difficulty.
20. In the Commissioner's investigation letter to Jesus College, she explained that from the information provided to her it did not appear Jesus College had specified the exemption it was applying to the request. However, it appeared that Jesus College was applying section 21 to withhold the requested information.
21. Furthermore, it was not clear from the information available to the Commissioner whether all the requested information was reasonably accessible to the applicant via the Land Registry, specifically the historic first and second quad.
22. In response to the Commissioner's investigation letter Jesus College wrote to the complainant on 16 October 2019 confirming that it held the requested information and advised that part of the information requested was exempt from disclosure under section 21 of the FOIA.
23. Jesus College explained that in deciding to apply section 21 to the requested information, it had considered the following:
  - all the requested information apart from that relating to its main academic site, comprising the first, second and third quads, is reasonably accessible to the complainant from the Land Registry;
  - *"The Land Registry has a straight forward and accessible system to allow the general public to access the information it holds;*
  - *Details of the procedure to access the information have been provided to [the complainant] and [it] has no reason to believe that any special circumstances apply that would mean that the information made available to the general public would not be accessible to [him] individually; and*
  - *Whilst the Land Registry imposes a fee to access information in accordance with the Land Registry Fee Order 2013, section 21(2)(a) of the Freedom of Information Act 2000 states that information may be regarded as reasonably accessible to the applicant "even though it is accessible only on payment"*

24. Jesus College provided the complainant with details of how he could access information from the Land Registry, which included details of how to search for the information online and to submit a hard copy search request.
25. As explained above, Jesus College confirmed that the information not publicly available was that relating to the main academic site comprising of the first, second and third quads, and confirmed the address and postcode for this site.

### **The Commissioner's conclusion**

26. The Commissioner has considered the arguments put forward by both parties in support of their positions.
27. The Commissioner is sympathetic to the complainant's argument that in order to access the information requested from the Land Registry's database, he would be required to pay a fee, which the complainant considers to be substantially more than £20.
28. However, in this respect the Commissioner wishes to refer to section 21(2)(a) of the FOIA which states that information may be regarded as reasonably accessible to the applicant "*even though it is accessible only on payment*". In addition, the Commissioner's guidance<sup>1</sup> on the application of section 21 states that "[i]n such cases, information is generally reasonably accessible even though the payment may exceed that which would be payable via FOIA."
29. Having considered the above, and in the absence of any conflicting evidence, the Commissioner has concluded that the withheld information is reasonably accessible to the complainant by other means, and that Jesus College correctly applied section 21 of the FOIA.

### **Procedural matters**

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#### **Section 10 – time for compliance**

30. Section 10(1) states that a public authority shall respond to information requests promptly and in any event no later than 20 working days from receipt.
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<sup>1</sup> <https://ico.org.uk/media/for-organisations/documents/1203/information-reasonably-accessible-to-the-applicant-by-other-means-sec21.pdf>

## **Section 17 – refusal of request**

31. Section 17(1) of the FOIA requires that where a public authority is relying on an exemption to withhold information, it must inform the requester of that fact, specify the exemption relied on, and explain why it believes that exemption applies (if not apparent). This information must be provided no later than 20 working days after the date on which the request was received.
32. The Commissioner notes that Jesus College referred to the requested information being publicly available, and directed the complainant to the Land Registry, in its responses of 8 March 2019 and 3 June 2019.
33. However, Jesus College did not advise the complainant whether it held the requested information, provide the information not covered by an exemption, or advise that it was relying on section 21(1) of the FOIA to withhold the requested information, until after the Commissioner wrote to it asking it to reconsider the requests.
34. By failing to advise the complainant that it held the requested information, provide the information not covered by the exemption, or specify the exemption it was relying on to withhold the remainder of the requested information within the time for compliance, Jesus College has breached sections 1(1), 10(1), 17(1) of the FOIA.

## Right of appeal

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35. 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@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)

36. 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.
37. 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 .....**

**Pamela Clements**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**