

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 5 June 2025

Public Authority: The Governing Body of Corpus Christi College
Oxford

Address: Merton Street
Oxford
OX1 4JF

Decision (including any steps ordered)

1. The complainant has requested a copy of a Serious Incident Review report. Corpus Christi College Oxford ('the College') relied on section 40(2) of FOIA (third party personal data), section 41 of FOIA (information provided in confidence), section 36 of FOIA (prejudice to the effective conduct of public affairs) and section 44 of FOIA (prohibitions on disclosure) to withhold the requested information.
2. The Commissioner's decision is that the College was entitled to rely on section 41 and sections 36(2)(b)(i) and 36(2)(b)(ii) of FOIA to withhold the requested incident review report.
3. The Commissioner does not require further steps.

Request and response

4. On 22 November 2024, the complainant wrote to the College and requested information in the following terms:

"Under the Freedom of Information Act 2000, I am requesting access to the independent Serious Incident Review produced for the College and referred to during the inquest into the death of [NAME REDACTED].

Specifically, I am seeking a copy of the Serious Incident Review conducted by [NAME REDACTED] and commissioned by the College.

I understand that some parts of the Review may involve personal data relating to living individuals or similar sensitive material. If redactions are required, I ask that you release the remainder of the document with appropriate redactions.”

5. The College responded on 18 December 2024. It stated that it held a copy of the requested reported but that it was relying on sections 40(2), 41 and 36(2)(c) of FOIA to withhold it.
6. Following an internal review, the College wrote to the complainant on 6 February 2025. It maintained its position.

Scope of the case

7. The complainant contacted the Commissioner on 6 March 2025 to complain about the way their request for information had been handled.
8. In its submission to the Commissioner, the College stated that it also considered section 44 of FOIA applied to some of the withheld information.
9. The Commissioner considers that the scope of his investigation is to determine whether the College was entitled to rely on the cited exemptions to withhold the requested information.

Reasons for decision

Section 41 – information provided in confidence

10. Section 41(1) of FOIA states that information is exempt from disclosure if:
 - (a) the information was obtained by the public authority from any other person and;
 - (b) disclosing the information to the public would constitute an actionable breach of confidence.
11. In their complaint to the Commissioner, the complainant has explained that they didn't request the sensitive information in the review report, and they don't believe that all the information within the report has been correctly withheld under section 41 of FOIA. They stated that the

report was considered in the inquest and was sent to the Department for Education without apparent breaches of confidence.

Was the withheld information obtained from another person?

12. The College has explained that the review report contains information provided by students, college staff and the deceased's family. This information was provided to an independent consultant who carried out the review and wrote the report on behalf of the College. The College stated that it also considers section 41 to apply to information about the deceased student.
13. The Commissioner is satisfied that disclosing the information withheld under section 41 in this case would mean disclosing information the College obtained from the person who carried out the incident review, and the statements of the people involved. Therefore, the test at section 41(1)(a) is met.

Would disclosure constitute an actionable breach of confidence?

14. When he's considering whether disclosing information would constitute an actionable breach of confidence, the Commissioner takes account of three tests.
15. First, the Commissioner is satisfied that the information in this case has the necessary quality of confidence because it's not trivial and it's not otherwise accessible.
16. Second, the Commissioner is satisfied that the information was imparted in circumstances requiring an obligation of confidence.
17. In its submission to the Commissioner, the College explained that staff and students participating in the Serious Incident Review were assured that the information they provided would be maintained as confidential, and that the College owes them a duty of confidence. They were also assured that the review report would be written under Universities UK guidelines 'Carrying out a serious incident review' which state that 'The review process should not be used to identify fault of blame.' The College also assured the deceased's family that it would maintain information about the deceased, and the circumstances surrounding their death, as confidential.
18. In its internal review response, the College explained that the review report has not been placed into the public domain. It stated that, to the contrary, the review report has been maintained as confidential by the College and has only been shared with the College's designated lead (the Co-Director of Student Welfare and Support Services) who represented the College at the inquest as an 'interested person' and the

coroner. It explained that the coroner read specific passages of the report during the inquest, and that great care was taken to avoid identifying students. The College considers that it was for the coroner to decide which parts of the review report should and should not be read in open court, and that it's only those passages which were read by the coroner which are in the public domain.

19. Third, the Commissioner considers unauthorised disclosure of the information would cause a specific detriment to both the parties which provided it or any other party.
20. The College considers that disclosure of the review report would cause harm to both the students and staff who provided information to the independent consultant in confidence. It explained that they would feel upset and distressed about information about the student's death, and the circumstances surrounding it, being released. The College considers that it would 'reopen' issues and lead to (unjustified) feelings of guilt, shame, or blame. Unauthorised disclosure would also cause specific detriment to the family of the deceased student with extremely sensitive personal details about their loved one being released into the public domain.
21. The College added that disclosure would also damage the College's processes and make future reviews poorer in quality because individuals would be less willing to cooperate voluntarily, openly, and honestly with the College in the future. The Commissioner considers that less cooperation with the College leading to less robust reviews could also impact the number and quality of recommendations or lessons learned.
22. Having considered the three tests above, the Commissioner is satisfied that disclosing the requested information would constitute a breach of confidence.

Is there a public interest defence to the disclosure of the information?

23. Section 41 is an absolute exemption and so there is no requirement for an application of the conventional public interest test. However, the common law duty of confidence contains an inherent public interest test. This test assumes that information should be withheld unless the public interest in disclosure outweighs the public interest in maintaining the duty of confidence (and is the reverse of that normally applied under FOIA). British courts have historically recognised the importance of maintaining a duty of confidence, so it follows that strong public interest grounds would be required to outweigh such a duty.

24. The Commissioner is therefore required to consider whether the College could successfully rely on such a public interest defence to an action for breach of confidence in this case.
25. The complainant has argued that there is public interest in transparency about the report's recommendations as this would increase public confidence, and more effectively assist the implementation of those recommendations in all universities. They also argued that the review report's observations about social ostracism amongst students, discussed in the inquest and report, generated significant public debate which would be better and more accurately informed if the report was accessible.
26. The College considers that the public interest in transparency has been met through the coronial process and the [Preventing Future Deaths report](#) that the coroner sent to the Department for Education to supplement their findings.
27. The College explained that there is a strong public interest in preventing the identification of the students involved, especially the risk of identification amongst the small college community. It stated that it is necessary to consider the impact disclosure would have on students and staff who are still dealing with the impact of the student's death as well as the removal of the safe space the College needs to work through the recommendations of the serious incident review.
28. The College doesn't consider that disclosure of the report would add significantly to the debate on social ostracism but instead would have a negative impact on the willingness of students and staff to engage with consultations in the future. It explained that it is necessary to maintain an effective and reflective system of reviewing an incident, of any kind, within common guidelines. It considers that this would likely spread across other Oxford colleges and most likely to other higher education institutions with the potential detrimental effect to future reviews into student deaths.
29. The Commissioner acknowledges that the complainant has a valid interest in the requested report, and that there is a wider general interest in how education settings respond to serious incidents. There is also a public interest in general student welfare and duty of care.
30. However, the Commissioner notes that the coroner's Preventing Future Deaths report briefly references the events leading up to the student's death, the incident review report, and wider concerns about social ostracism. He considers that this can be seen to satisfy the public interest to a large extent in this case.

31. The Commissioner is therefore satisfied that it would be an actionable breach of confidence for the College to disclose the withheld information under FOIA. The Commissioner's decision is that the College is entitled to rely on section 41(1) of FOIA to withhold parts of the incident review report.

Section 36 – prejudice to the effective conduct of public affairs

32. Section 36(2) states that information is exempt from disclosure if, in the reasonable opinion of the qualified person, disclosure of the information:
- (b) would, or would be likely to, inhibit -
 - (i) the free and frank provision of advice, or
 - (ii) the free and frank exchange of views for the purposes of deliberation, or
 - (c) would otherwise prejudice, or would be likely otherwise to prejudice, the effective conduct of public affairs.
33. All three exemptions at section 36(2) can only be engaged on the basis of the reasonable opinion of a qualified person.
34. The qualified person (QP) in this case was Professor Helen Moore, President of the College. The Commissioner is satisfied that this individual is authorised as the QP under section 36(5) of FOIA.
35. The College explained that it sought the QP's opinion on 13 December 2024. In the QP's opinion, disclosure would prejudice the effective conduct of public affairs because it would damage the safe space away from public scrutiny for the College to work with the community in relation to the incident, and work through the report's recommendations. The QP considered that disclosure of the report would make it less likely that staff and students would co-operate in future reviews relating to sensitive subjects. The QP also considered the general and ongoing sensitivity of the matter and that this is reflected in the fact that the coroner had declined to order publication of a redacted version of the report's recommendations.
36. The Commissioner must first consider whether this opinion is a reasonable opinion to hold. It is important to highlight that it is not necessary for the Commissioner to agree with the opinion of the qualified person in a particular case. The opinion also does not have to be the only reasonable opinion that could be held or the 'most' reasonable opinion.

37. The Commissioner only needs to satisfy himself that the opinion is reasonable, or, in other words, it is an opinion that a reasonable person could hold. An opinion will be unreasonable if it is irrational, absurd, fails to identify an applicable interest or fails to explain why the claimed harm would or would be to occur.
38. For the QP's opinion to be reasonable, it must be clear as to precisely how the inhibition may arise. In his published [guidance](#) on section 36 the Commissioner notes that it is in the interests of public authorities to provide him with all the evidence and arguments that led to the opinion, to show that it was reasonable. If this is not done, then there is a greater risk that the Commissioner may find that the opinion is not reasonable.
39. The withheld information in this case comprises a serious incident report into the death of a student. The report contains detailed accounts of the events leading up to the student's death as well as statements from other students, College staff and the deceased's family. The report was carried out by an independent consultant on behalf of the College, and it contains a number of recommendations.
40. The College considers that, although the inquest into the student's death had concluded at the time of the request, it still needs a safe space away from public scrutiny to continue work with the College community and to implement the recommendations set out in the report.
41. The College explained that the repercussions of the student's death are still ongoing. It considers that it has specific and serious reasons to be extremely concerned for the privacy and wellbeing of those impacted and made vulnerable by the events concerned. It explained that the report addresses personal relationships and matters of a sensitive and confidential nature.
42. The College added that media attention following the inquest was damagingly intense for vulnerable individuals and the broader community, being frequently insensitive, and in breach of journalistic guidelines on a number of occasions. Overt hostility and even threats were expressed on social media, including by high profile people. As a result, the College considers that there is a significant risk of considerable psychological harm to a number of individuals should information enter the public domain.
43. The College has stated that it is extremely concerned at the level of anxiety and distress that has been provoked by the press coverage already and the fear of identification that is ongoing and will be lifetime-long for those students most closely impacted by these events. It added that due to the small size of a college community 'jigsaw' identification

is a significant and material risk that was acknowledged. This was taken very seriously by the coroner at the time of the inquest and the College considers that it must continue to be taken very seriously. It is also noted that the principle of 'no-blame' underpinning the report and within the Universities UK guidelines has already been undermined by media coverage and disclosure would further undermine this principle.

44. The College considers that publication of the report would make staff and students less likely to cooperate with future reports of a similar nature as they would fear identification through publication and be less open and forthcoming in the way they dealt with any external review. These reviews rely on people participating openly and candidly; it is also noted that the author of the report gave assurances about confidentiality and anonymity. It explained that undermining the process would be extremely harmful because it would lead to less high-quality reviews; it would inhibit the College's ability to learn from future serious incidents because there would be an unwillingness from relevant people to participate.
45. The College considers that the inquest and coronial process was the proper forum for considering the causes of the student's death, making recommendations to prevent future deaths, and balancing transparency with sensitivity. The College pointed out that the Chief Coroner has only published the [Prevention of Future Deaths](#) notice and declined to order publication of a redacted version of the recommendations of the report. It added that the coroner read specific passages of the report during the Inquest and took care to avoid identifying any party. The College stated that it understood that the coroner does not propose that the serious incident review will be released in any form.
46. The College stated that the QP's opinion is that the coronial process provided an independent forum for consideration of whether the report should be published with all parties' interests properly heard. In this way, disclosure of the serious incident review under FOIA would 'otherwise prejudice the conduct of public affairs' because it would undermine the coronial process.
47. When giving their opinion, the QP added that:

"I have also considered the fact that the incident review was conducted under national guidelines in which confidentiality is a key factor in ensuring trusting, open and reflective learning. This is a vital and necessary requirement in this process. It would have a chilling effect on self-reflection and would cause institutional and personal harm in the sector as a result if the confidentiality of such a review were to be compromised.

Hence the risk of consequent harms is not only personal to the College and its staff and students, but sector-wide.”

48. The Commissioner accepts that it was reasonable for the QP to hold the opinion that disclosure of the report would be likely to result in prejudice to the effective conduct of public affairs.
49. Even though the College cited section 36(2)(c), all of its arguments relate to the preservation of a safe space, and the chilling effect. Section 36(2)(c) relates to arguments that “otherwise” prejudice the effective conduct of public affairs, which indicates this prejudice must be separate and distinct to section 36(2)(b). Since the College’s arguments relate instead to sections 36(2)(b)(i) and (ii) of FOIA, the Commissioner agrees that these should be applied to the withheld information, not section 36(2)(c).
50. The Commissioner notes that the QP has indicated that they consider the perceived prejudice would happen. The Commissioner has not been provided with sufficient evidence to confirm the prejudice would happen; however, he is satisfied that the lower level, that is, would be likely to prejudice, applies.
51. The Commissioner does not agree that the disclosure of the requested information would necessarily undermine the coronial process. However, he has considered the timing of the request and the fact that the inquest into the student’s death had been completed just before the request was made. He is satisfied by the College’s explanation as to why the impacts from the incident are still being felt and why the College still requires a safe space to work through the report’s recommendations. He therefore finds that sections 36(2)(b)(i) and (ii) are engaged concerning the report’s recommendations.

Public interest test

Sections 36(2)(b)(i) and 36(2)(b)(ii) of FOIA

52. Section 36 is a qualified exemption and therefore the Commissioner must consider the public interest test 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 factors in favour of disclosing the withheld information

53. The complainant has explained that there is a public interest in disclosure because: “the observations about social ostracism amongst students discussed in the report, and the inquest, generated significant

public debate which would be better and more accurately informed if the report was accessible.”

54. The complainant has pointed to the coroner’s Preventing Future Deaths report and stated that the incident review report is being used to formulate policy in the College, Oxford University, the Office for Students, the Department for Education, and in universities more generally to keep students safe. They consider that disclosure is important to understand those recommendations.
55. They consider that transparency about the report’s recommendations would increase public confidence and more effectively assist the implementation of those recommendations in all universities.
56. The College has acknowledged that there is public interest argument that disclosure would aid public understanding of the death of a student.

Public interest factors in favour of maintaining the exemption

57. The College considers that the public interest has been met through the coroner’s inquest and the transparency that process brought.
58. It considers that there is strong public interest in preventing the identification of the students involved, especially the risk of identification amongst the small College community.
59. It explained that disclosing the report would have a negative impact on students and staff being willing to engage with reviews in the future. It explained that it’s necessary to maintain an effective and reflective system of reviewing an incident, of any kind, within common guidelines. The College considers that this would likely spread across other Oxford colleges and most likely to other higher education institutions with the potential detrimental effect to the effectiveness and quality of future reviews into student deaths.
60. The College considers that disclosure would have a negative impact it would have on students and staff who are still dealing with the impact of the student’s death and the removal of the safe space the College needs to work through the recommendations of the report.
61. The College considers that disclosure of the report would not add significantly to the debate on social ostracism as that debate is already live, given the appropriate degree of transparency delivered by the coronial process.

Balance of the public interest

62. The Commissioner agrees that there is public interest in transparency about the way the College responded to such a tragic event, and the recommendations to support its response in serious incidents in the future. However, he also considers it important that the College should have the time and safe space necessary to work through the recommendations, and to continue to support those people still affected by the student's death.
63. The Commissioner agrees with the College's concern that disclosure of the requested information would likely deter individuals from engaging in investigations and reviews in future. This chilling effect would also likely impact the quality of future reviews and resulting recommendations.
64. The Commissioner agrees that the inquest into the death and the coroner's 'Preventing Future Deaths' report can be seen to satisfy, to a large extent, the public interest in ensuring that the incident was investigated appropriately.
65. The Commissioner notes that the complainant has pointed to the public interest in the report's role in the debate about social ostracism. He notes that social ostracism is mentioned in the Preventing Future Deaths report and that the coroner states: "I did not find on the balance of probabilities that this culture specifically caused or contributed to [NAME REDACTED]'s death, but it did give rise to a concern that circumstances creating a risk of future deaths could occur". He therefore does not agree that disclosure of the report itself is necessary to the debate about social ostracism.
66. In conclusion, the Commissioner is satisfied that section 36 applies to the withheld incident review report and finds that the public interest in maintaining sections 36(2)(b)(i) and (ii) outweighs the public interest in disclosure.
67. As the Commissioner finds that the College was entitled to rely on sections 41, 36(2)(b)(i) and 36(2)(b)(ii) to withhold the incident review report, it is not necessary for him to consider the application of the other cited exemptions.

Right of appeal

68. 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)
General Regulatory Chamber,
PO Box 11230,
LEICESTER,
LE1 8FQ

Tel: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

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

69. 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.
70. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

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