

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 24 August 2017

**Public Authority:** Royal Holloway, University of London  
**Address:** Egham Hill  
Egham  
Surrey  
TW20 0EX

#### Decision (including any steps ordered)

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1. The complainant has requested information from Royal Holloway, University of London ("the University") regarding student feedback on specific modules on the MSc course in Information Security.
2. The Commissioner's decision is that section 40(2) of the FOIA can be relied on in respect of the limited amount of information to which it is still been applied. During the course of her investigation however the University did agree that some previously withheld information could be released. The Commissioner therefore requires the University to disclose this information now.
3. The public authority must take this step within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Act and may be dealt with as a contempt of court.

#### Request and response

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4. On 14 December 2016, the complainant wrote to the University and requested information in the following terms:

*"Can I have feedback information, both individual forms and aggregated data, for the following modules on the MSc Information Security programme for this academic year (where available) and the last ten previous years please:*

- *IY5523 Secure Business Architectures*
- *IY5522 Security Technologies*

*I have no interest in personal data. If ten years' worth of information is not available, just information for as many years as you do have it. The modules' codes and names above are those advertised this year and they may have changed for previous years. If they have changed, please supply me with the course which best fits the modules' names listed above."*

5. On 17 January 2017, the University responded as follows:

- It confirmed that course IY5523 had been offered to students for the academic years 2012/13 to 2015/16 inclusive, and that from 2005/06 to 2011/12 inclusive, the course which had most closely resembled IY5523 was IY5601: Application and Business Security Developments;
- It confirmed that course IY5522 had been offered to students from 2005/06 to 2015/16 inclusive;
- It had been unable to locate any scanned copies or aggregated feedback data prior to 2013/14, when the recording of feedback data was transferred to an electronic system, and stated that accordingly this information was not held;
- With regard to information recorded from 2013/14, the University provided aggregated feedback data from courses IY5523 and IY5522 for academic years 2013/14, 2014/15 and 2015/16. The University partially redacted this information, citing section 40(2) of the FOIA (Third party personal data).

6. The complainant requested an internal review on 17 January 2017. The University sent him the outcome of its internal review on 13 March 2017, as follows:

- It had located summarised feedback data from 2007/08, 2009/10 and 2012/13, which it provided, partially redacted under section 40(2);
- It confirmed that no other information falling within the scope of the request was held;
- It upheld its application of section 40(2) of the FOIA to all of the redacted information.

## Scope of the case

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7. The complainant contacted the Commissioner on 21 March 2017 to complain about the way his request for information had been handled. Specifically, he disagreed that some of the information located by the University should be withheld as personal data.
8. The Commissioner considers that the scope of the case has been to consider whether the University was correct to withhold some of the information which it held falling within the scope of the request under section 40(2) of the FOIA.
9. In response to the Commissioner's investigation, the University decided that additional information could be provided to the complainant. The University is therefore required to disclose those records (para 2) and the Commissioner has not considered further the application of section 40(2) to that information. The Commissioner's analysis set out below instead only refers to the University's application of the exemption to the remaining withheld information.

## *Free-text comments*

10. During the course of the investigation, the University has reconsidered some of the previously withheld information, which comprised handwritten, free text comments written by the students. The University had withheld these in their entirety, and had explained that it considered the comments to be the personal data of students and course tutors.
11. The University then agreed to transcribe the information into typeface. Following this, it considered that only some parts of this information now comprised the personal data of the students and/or course tutors, and was willing to disclose the remainder.
12. The University then considered its redactions further and agreed that more of the comments could be disclosed. It is now seeking to redact only seven specific words/phrases. The Commissioner has considered these seven words/phrases within the scope of her investigation.

## Reasons for decision

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### **The information held by the University**

13. The information which the University is withholding, which has been examined by the Commissioner in order to consider its application of section 40(2), can be summarised as follows.

14. The information falls into three categories:

- (i) students' ratings of a number of statements regarding different aspects of the specific modules, scored between -2 (disagree strongly) and +2 (agree strongly) – "students' ratings";
- (ii) the resulting data presented in different formats such as histograms – "aggregated data";
- (iii) specific excerpts from the transcribed, free text comments – "free text comments".

15. The Commissioner notes that some additional statements were added to the feedback forms after 2014 for the students to rate. This did not materially affect the nature of the information being withheld.

### **Section 40(2) – Third party personal data**

16. This exemption provides that any third party personal data is exempt if its disclosure would contravene any of the Data Protection Principles set out in Schedule 1 of the Data Protection Act (DPA).

### **Is the withheld information personal data?**

17. Personal data is defined as:

..."data which relate to a living individual who can be identified-

(a) from those data, or

(b) from those data and other information which is in the possession of, or is likely to come into the possession of, the data controller, and includes any expression of opinion about that individual and any indication of the intentions of the data controller or any other person in respect of the individual..."

#### ***(i) and (ii) - Students' ratings and aggregated data***

18. With regard to the students' ratings and aggregated data, the University considers that the withheld data are the data of the course tutor(s) and the students who had provided the feedback.

19. The two main elements of personal data are that the information must 'relate' to a living person and that the person must be identifiable.

20. Information will relate to a person if it is about them, linked to them, has some biographical significance for them, is used to inform decisions affecting them or has them as its main focus.

21. The Commissioner has considered whether the course tutor(s) and students are identifiable from the withheld data.
22. Specifically, the University applied section 40(2) of the FOIA to the students' ratings of those particular statements which, it considered, referred directly to the course tutor (category (i)). It did not redact the statements which the students were being asked to rate. Examples of redactions include the students' ratings for: *"the tutor(s) explained things well"* and *"I received helpful feedback on my progress during the course."*
23. The exemption was also applied to the aggregated data resulting from the rating of those particular statements (category (ii)).
24. The Commissioner does not consider that the students' ratings are the personal data of the students providing the feedback, since she considers that the forms are sufficiently anonymised for individual students not to be identifiable. There is no obvious way of knowing which individuals from a cohort of students from a particular year completed the feedback forms.
25. However, the Commissioner is satisfied that the withheld data in these categories are the personal data of the tutor(s), for the following reasons.
26. The Commissioner considers that the tutor(s) are identifiable since their identity is known to individuals having knowledge of the modules of MSc course in Information Security at the University, and is discoverable by anyone having access to certain areas of the University's intranet or attending an open day or similar event.
27. The ratings which the University has redacted are opinions on the performance of the tutor(s), for example, where the rating applies to: *"The tutor made the subject interesting."* This falls within the definition above, since the information is used to inform decisions affecting the tutor(s) and has them as its main focus.
28. The Commissioner also notes that a tutor's name is included on the forms from 2014 onwards and this name itself been redacted. She agrees that the name itself is clearly the personal data of the tutor concerned. While redacting this goes some way to anonymising the data, she considers that, for the reasons above, the tutor(s) of the modules are still identifiable from the other contents of the forms and for this reason the University is correct to consider the redacted information in categories (i) and (ii) as being the personal data of the tutor(s).

***Category (iii) – transcribed free-text comments***

29. As already stated, the withheld information in this category comprises seven specific words/phrases. These were originally handwritten by individual students on the feedback forms and have now been transcribed into typeface; however, the University considers that five of the redacted words/phrases are the personal data of course tutors and in two cases, are the personal data of the student who made the comment.
30. As before, the Commissioner has considered whether the information 'relates' to a living person and renders the person identifiable.
31. As explained, information will relate to a person if it is about them, linked to them, has some biographical significance for them, is used to inform decisions affecting them or has them as its main focus.
32. The Commissioner has considered whether course tutors and students are identifiable from the withheld data.
33. With regard to the two comments withheld as being the personal data of the students, the University considers that the students would be identifiable from these. One comment identifies a particular student's circumstances and opinions regarding an assignment. The other includes information about a student's experience before attending the course. The University considers that both of these comments would be likely to make the author identifiable to other members of the same cohort(s).
34. The Commissioner agrees that the students in question are identifiable from the comments, and that they are therefore the personal data of the students who wrote them. Indeed in the second instance, the comment could also arguably be considered to be the personal data of a course tutor.
35. With regard to the remaining five words/phrases which are being withheld, the University has argued that these are the personal data of course tutors. The Commissioner has considered whether course tutors are identifiable from the withheld information.
36. In two instances, the redacted information comprises a tutor's first name which renders him or her clearly identifiable.
37. The Commissioner has also considered the remaining withheld information in this category. Broadly speaking, the information comprises opinions on the actions of tutors in specific instances, and opinions on their performance, both on the modules in question and with regard to other identified modules.

38. As with the withheld data in categories (i) and (ii), the Commissioner agrees that the withheld information is the personal data of the tutors since their identity is known to individuals having knowledge of the modules of MSc course in Information Security at the University, and is discoverable by anyone having access to certain areas of the University's intranet or attending an open day or similar event.

### **Would disclosure breach the Data Protection principles?**

39. The Commissioner has gone on to consider whether disclosure of the information in the three categories would breach any of the data protection principles.
40. The Data Protection Principles are set out in Schedule 1 of the DPA. The first principle and the most relevant in this case states that personal data should only be disclosed in fair and lawful circumstances. The Commissioner's considerations below have focused on the issue of fairness.
41. In considering fairness, the Commissioner finds it useful to balance the reasonable expectations of the individuals, the potential consequences of the disclosure and whether there is legitimate public interest in the disclosure of the information in question.

### **Reasonable expectations**

42. Whether an individual might reasonably expect to have their personal data released depends on a number of factors. These include whether the information relates to an employee in their professional role or to them as individuals, the individual's seniority or whether they are in a public-facing role.
43. In this case, the data relates to students' feedback about tutors in their professional roles, with the exception of two of the free text comments which the University has argued are the personal data of individual students and which will be considered separately.
44. In the University's view, the tutors would have no reasonable expectations that the withheld information would be made available to the general public. It has explained that the feedback is used *"to help departments identify areas of improvement regarding the course content, course material, course reading materials and course delivery. Some departments across the College also use the content of the feedback forms to inform academic reviews, end of year evaluations, performance reviews and probation reviews"* and that there is no expectation that the information would be shared more widely than this.

45. The Commissioner understands therefore that the information is normally considered internally within the relevant department at the University, and that it would not routinely be made public.
46. The comments from which students would be identifiable must be considered separately. A student filling in a feedback form which is handed out on the basis that it will not be shared outside the University department clearly has no reasonable expectations that his or her views would be made public.

### **Consequences of disclosure/Damage and distress**

47. The Commissioner has considered whether the disclosure of the information in these categories would be likely to cause distress to the individuals. In her view, although it would in some ways depend on whether the students' feedback was positive or negative, it is likely that the tutors concerned would potentially be embarrassed or distressed to have students' views about them disclosed to the wider public. Even in cases where feedback is largely positive, it would be an intrusion of the individuals' privacy to have students' comments about performance at work, for the last ten years, disclosed to the wider world.
48. This distress would arguably be exacerbated in a situation where an individual had only ever expected the feedback to be considered by members of his or her department at work, and had been informed that the forms were offered to the students for completion only on this basis, as in this case.
49. With regard to the two comments which are the personal data of particular students, the Commissioner considers that damage and distress would arise in a situation where a student has been asked to express his or her personal views freely in a confidential, anonymous manner only for those opinions to be made public.

### **Legitimate public interest in disclosure**

50. The complainant has argued that the courses are funded partly from the public purse and that there is a need for transparency. He states that there is a public interest in holding the University accountable for the quality of its teaching.
51. The complainant has also commented on the need to be seen to be ensuring that feedback is acted upon. In his view, transparency would help to answer any accusations of complacency or inaction where it is felt that criticisms of a course are not being acted upon.
52. He considers that it would be unreasonable to keep data, even personal data, about a course "*secret and hidden.*"



53. The University, conversely, has argued that there is limited public interest in the disclosure of the information since it relates only to two specific modules on a course run within the School of Information Security. It points out that it has already provided much of the feedback data to the complainant, even though this is not routinely made public, and has only withheld sections which relate specifically to the performance of tutors and which it considers identify particular students.
54. The University has explained that it has no reason to believe that the courses in question are delivered in an unsatisfactory manner or that the content of the courses does not meet the academic requirement of a postgraduate qualification.
55. The Commissioner notes that the information requested by the complainant relates to the two core modules studied by those students taking a particular pathway (currently offered as 'Core B') when studying for the MSc in Information Security at the University. The MSc can be studied over either one or two years in the University itself or over a longer period when studied as part of Continuing Professional Development.
56. The Commissioner accepts that there is a legitimate public interest in the performance of UK universities. She is aware that general information regarding student satisfaction at the University can already be investigated through a number of channels.
57. The Commissioner also considers that there is legitimate interest in being able to find out about student satisfaction with specific courses at the University.
58. She notes that it is already possible to find out levels of student satisfaction with courses in the Computer Science department, including the MSc in Information Security, at the University, from websites such as *Complete University Guide* and *Unistats*.
59. The Commissioner therefore notes that there is a fairly large quantity of information already in the public domain regarding student satisfaction with the MSc course which would enable members of the public to form a view on the standard of the course. The information available includes not only student satisfaction with the MSc course, but also the percentage of students obtaining different classes of degree, which can be seen as an indicator of the quality of teaching across the course as a whole.
60. The Commissioner does not consider therefore that any wider public interest in disclosing the information, which relates only to two specific modules on the course, outweighs the individuals' expectations of their

personal data being disclosed and the potential damage and distress which would be caused if this were to happen.

61. The Commissioner has therefore determined that the University has correctly applied the exemption at section 40(2) of the FOIA to the withheld information in categories (i) and (ii); that is, the redacted sections of the students' ratings and the resulting aggregated data. She has also determined that the University has correctly applied the exemption at section 40(2) to the five specific words/phrases from the students' transcribed comments which comprise the personal data of university tutor(s), in category (iii).
62. Similarly, the Commissioner does not consider that any wider public interest in the two comments which have been found to be the personal data of particular students outweighs the damage and distress which could be caused by disclosing the information, owing to those individuals' expectations of confidentiality and anonymity when expressing their views.
63. She therefore has determined that the University has correctly applied the exemption at section 40(2) of the FOIA to the specific phrases which have been found to be the personal data of students, from the students' transcribed comments in category (iii).
64. The Commissioner has therefore decided that the University should continue to withhold the information it redacted in categories (i) and (ii) respectively. However, as has been agreed during the course of the investigation, the University should disclose the students' free text comments, transcribed into typeface, to the complainant, save for the seven specific words/phrases which have been correctly withheld under section 40(2).

## Right of appeal

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65. 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@hmcts.gsi.gov.uk](mailto:GRC@hmcts.gsi.gov.uk)

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

66. 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.
67. 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** .....

**Alun Johnson**  
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