

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 8 November 2022

Public Authority: Council of The University of London
Address: Senate House
Malet Street
London
WC1E 7HU

Decision (including any steps ordered)

1. The complainant has requested past examination papers and scoring for several BSc Computer Science courses at the University of London over the last two years. The University refused the request under section 43 of the FOIA.
2. The Commissioner's decision is that the public authority has demonstrated the exemption is engaged and the public interest favours maintaining the exemption and withholding the information.

Request and response

3. On 15 March 2022 the complainant wrote to the University and requested copies of specific BSc Computer Science past year papers and solutions (if available) for the last two academic years.
4. The public authority refused to provide this information, relying on section 43 of FOIA in order to do so – a position it upheld at internal review.

Scope of the case

5. The Commissioner considers the scope of the investigation to be to determine whether the University has correctly applied the section 43(2) exemption to withhold past papers and solutions for the specified BSc

Computer Science courses over the past two years and, if so, where the balance of the public interest lies.

Reasons for decision

6. Section 43(2) FOIA exempts information the disclosure of which would, or would be likely to, prejudice the commercial interests of any person (ie an individual, a company, the public authority itself or any other legal entity). In order for such information to be exempt, a public authority must show that, because it is commercially sensitive, disclosure of it would, or would be likely to, prejudice the person's commercial interest. The exemption is qualified, so where the exemption is engaged it is then necessary to apply a public interest balancing test.
7. The Commissioner has considered the issue of the disclosure of course materials, past examination papers, and solutions before in [IC-48161-T9S1](#), [FS50812982](#), [FS50624975](#) and the issue has also been considered at the First-Tier Tribunal in [EA/2009/0034](#) so he does not intend to repeat these arguments here.
8. In all of these cases it was accepted that there exists a competitive environment at colleges and universities and there is a commercial interest in this kind of information.
9. The complainant has argued that this situation is somewhat different as the exams in this case were not taken in a traditional way ie at a desk in an examination hall but rather were online exams. The complainant argues the students will still have the exam papers unless they deleted them.
10. The Commissioner does not consider this to be of particular relevance in determining if there is commercial value and interest in the papers and the solutions. The issue for the Commissioner is to determine whether there is a direct link between disclosure of the requested information and any prejudice that might occur to the University's commercial interests.
11. In the previous decision referred to scoring and materials that show how courses are assessed were considered to be likely to prejudice commercial interests as they disclose details of how courses are assessed and would put information that has been developed by experts over several years into the public domain for others to use freely.
12. For these reasons the Commissioner considers the information requested does engage the section 43(2) exemption and he has gone on to consider the public interest.

13. The complainant argues there is a public interest in evidencing transparency and accountability to demonstrate the rigour and quality of examinations, assessments and awards. The complainant further argues that, given the increase in 'good grades' being awarded and concerns from employers over graduates basic literacy and numeracy, there is a public interest in these specific exam papers being released into the public domain to determine if the papers comply with the expectations and practices set out in the UK Quality Code for Higher Education.
14. The University stated it had considered this point but had concluded the public interest was better served by ensuring academic rigour of its awards and the integrity of this could be impacted by the disclosure of the exam papers as students would be able to gain insight into the questions that may be asked in future exams.
15. The University also advanced other arguments in support of the public interest in withholding the information, mostly relating to the impact of any commercial prejudice on its ability to ensure academic rigour.
16. The Commissioner considers, as in the other cases referred to earlier, that protecting the ability of the University to operate effectively within a competitive market by not disclosing information that competitors could use to its commercial disadvantage, carries significant weight. Whilst the Commissioner accepts there is a public interest in ensuring accountability and transparency there is not a wider public interest in this information, it is of interest to students and other educational providers it is not clear there is a wider public interest beyond this. Any wider public interest there may be in scrutiny of the University's performance can be met in the information the University routinely publishes on reporting information.
17. Based on the above, the Commissioner has concluded that the balance of the public interest lies in withholding the requested information.

Right of appeal

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

Website: 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.

Signed

Jill Hulley
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF