

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 9 July 2024

**Public Authority:** Belfast Metropolitan College  
**Address:** Titanic Quarter Campus  
Room 17  
7 Queen's Road  
Belfast  
BT3 9DT

#### Decision (including any steps ordered)

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1. The complainant requested from Belfast Metropolitan College (the College) information relating to Castlereagh Campus. The College confirmed the information requested is intended for future publication on the College's website. It applied section 22(1) (information intended for future publication) of FOIA to the withheld information.
2. The Commissioner's decision is that the College was entitled to rely on section 22(1) of FOIA to withhold the information. Therefore, the Commissioner does not require the College to take any further steps as a result of this decision.

#### Request and response

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3. On 6 October 2023 the complainant wrote to the College and requested information in the following terms:
  - "The minutes from any meetings discussing the future of the Castlereagh Campus.
  - A copy of any data related to the decision-making process for entering into consultation. This data should include, but not be limited to, the running costs of the Castlereagh Campus, income

generated from the Castlereagh Campus, utilisation statistics of the Castlereagh Campus, and departmental usage of rooms within the Castlereagh Campus related to this matter.

- A copy of the consultation process including associated timelines.”
4. On 8 November 2023 the College responded and confirmed it holds some of the information requested. It stated the information (“The minutes from any meetings discussing the future of the Castlereagh Campus”) is intended for future publication on the College's website and cited section 22(1) (information intended for future publication) of FOIA.
  5. With regard to the second point of the request where the complainant mentions “income generated from the Castlereagh Campus...”, the College advised that it does not record income by campus, but by department, and was therefore unable to provide data on the income generated from Castlereagh Campus.
  6. With regard to the remaining parts of the second point of the request, and also to the last point, the College stated the information is intended for future publication on its website and cited section 22(1) of FOIA.
  7. On 27 November 2023 the complainant asked for an internal review.
  8. On 5 February 2024 the College provided its review response and maintained its original position. With regard to the request for “income generated at the Castlereagh Campus”, the College considered the complainant’s view on not providing this, and informed him that all income and outgoings generated by the College are reported in the College’s Annual Accounts. It said, these reports are routinely made available on its website as part of its publication scheme. It also stated that the College’s Annual Accounts, are available on its website under the Corporate Documents section. However, this information is not held on an individual campus basis.

## **Reasons for decision**

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9. This reasoning covers why the College was entitled to rely on section 22(1) of FOIA to refuse to provide the requested information.

## **Section 22 – information intended for future publication**

10. Section 22(1) of FOIA states that information is exempt information if:

- (a) the information is held by the public authority with a view to its publication, by the authority or any other person, at some future date (whether determined or not),
  - (b) the information was already held with a view to such publication at the time when the request for information was made, and
  - (c) it is reasonable in all the circumstances that the information should be withheld from disclosure until the date referred to in paragraph (a).
11. For the exemption in section 22 to apply, the public authority must, at the time of the request, hold the information and intend that it or 'any other person' will publish it in future. This means that it must have a settled expectation that the information will be published at some future date. The exemption does not require a set publication date to be in place.
  12. The College stated that in relation to "The minutes from any meetings discussing the future of the Castlereaugh Campus" the College said it identified Resources Committee and Governing Body minutes as falling under the scope of the request. The College determined that information (Resources committee and Governing Body minutes) would be publicly accessible on its website as part of its standard processes. The College said these are proactively published on the public documents section of its website, and provided the Commissioner with a screenshot of Public Documents section of its website.
  13. With regard to the remaining parts of the request, the College stated the information was intended for publication. The College directed the Commissioner to excerpts from details and included them within an Appendix.
  14. The College explained that it was in the process of preparing content for a variety of pre-consultation campus briefings with key stakeholders, at the time the request was received. The College said "A standard set of slides were to be developed in order to support these engagement events that were scheduled to take place during the consultation period with staff, students, politicians and the local community."
  15. The College further explained that at the time of responding to the request, it was preparing to launch the public consultation on 13 November 2023. The College said it was running a 14 week consultation period and therefore, the public consultation process would remain open until 16 February 2024. It stated that the information owner did not confirm when the date publication would be, but believed the information would be made available during the 14 week consultation

exercise. The College supplied the Commissioner with a copy of the issued emails to evidence this.

16. The College considered its application of the exemption was reasonable and was a sensible and fair decision. This, it said, was to help ensure the availability and accuracy of the information for all stakeholders at the same time. The College stated the request was received within 26 working days of the go live date.
17. The College explained to the Commissioner the purpose of facilitating an extensive consultation process regarding the future of the Castlereagh Campus. It said this was to ensure key stakeholders that may be affected by the future decision, had an opportunity to understand the reasons for the proposal and provide their views to assist the College with its decision-making process. The College stated its consultation efforts were wide ranging with over 200 key stakeholders, including politicians, trade union representatives, local businesses, schools and educational institutions. They would be individually informed of the consultation exercise, and all staff and students were also informed of the public consultation. The College further explained that they would be encouraged to attend face to face engagement events, briefings and/or to submit their views online.
18. The College said the complainant is aware of campus pre-consultation briefings, dates that the consultation would be opened, and that the consultation information would be made available.
19. The College also considered the range of stakeholders and substantial public interest that would be generated in a consultation exercise on the proposed closure of Castlereagh Campus. It said; "As such, the College required internal discussion and thorough consideration of the information prior to its public release. Given the substantial public and media interest, due diligence was necessary to ensure that information was accurate and provide the full context for the College's considerations of the proposed closure of Castlereagh Campus as there may be difficulties with retrieving or rectifying information released in error."
20. The Commissioner accepts that in the circumstances, it was reasonable for the College to withhold the information until the future publication date, and to rely on section 22(1) of FOIA.

### **Public interest test**

21. As the Commissioner is satisfied the exemption was applied correctly in this case, he will consider whether the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

### **Public interest arguments in favour of disclosing the information**

22. The College recognises that disclosure of the information would improve transparency, as it's a matter of public interest by staff, students and other key stakeholders. The public interest in favour of early disclosure, the College said, are that the public will have access to information which may assist with their decision-making in advance of the College formally facilitating a public consultation process. The College believes that some information may lose its relevance and impact if delayed or released too late. It said, immediate access ensure the information is current and applicable to upcoming or ongoing public consultation and discussion.
23. The College also recognises the public have a legitimate interest in the future of Castlereagh campus. The College stated; "Through the extensive public consultation process, the College demonstrated at all times that it was committed to ongoing engagement and discussions with a wide range of stakeholders including trade union representatives, local political representatives, staff, student and the wider community."
24. The College said it maintains that openness and transparency in its communications can lead to increased trust between the public and the College.

### **Public interest arguments in favour of maintaining the exemption**

25. The College argued that incomplete publication without the relevant context and rationale, could be misleading and provide an inaccurate picture of its decision-making process and the consultation exercise.
26. The College believes it's important that the information could be accessed simultaneously by the general public, rather than piecemeal by disclosure to an individual under FOIA.
27. In order to avoid the risk of ambiguity and/or incorrect assertions being drawn through premature publication, the College said its review of the information and timing of the publication needed to be carefully managed. Specifically, given the likelihood of media interest and public interest.
28. The College further argued that there's public interest in not releasing the information – single documents, without the context of the remainder of the consultation material. It believes a fragmented approach to the disclosure of information could lead the public to poor decision-making.

29. The College confirmed that at the time of the request (“a copy of the consultation process...”), the related information was due to be published on its website and would be available between 13 November 2023 and 16 February 2024.
30. The first part of the request (“The minutes of any meetings discussing the future of the Castlereagh Campus”) the College said that this forms part of its Publication Scheme. Therefore, information is proactively made available on the College's website as a matter of routine. The College explained at the time of the request, Governing Body and Resources Committee minutes were due to be published following internal review and approval.
31. The College said it appreciates that there was a delay with the publication of these minutes, due to a period of sickness absence within the Governing Body Secretariat. The College explained; “As part of our standard processes, information released under our Publication Scheme requires internal validation prior to being published. Whilst there was a delay, the College made efforts to expediate this process in light of considerable public interest.”

### **Balance of the public interest test**

32. The Commissioner acknowledges the public interest in transparency and accountability. This includes the public having access to information to enable them to understand decisions made by a public authority and how they may affect them, which in this case is information about the future of a college campus and the impact it could have.
33. However, the Commissioner considers there is a stronger public interest in the College being able to prepare and complete information for publication, and with the necessary quality assurance and validation. Premature disclosure of the information would be likely to negatively impact its consultation process. Also, the Commissioner accepts that without the full context, partial disclosure of information relevant to the consultation could be open to misinterpretation and raise issues. The College would therefore have to divert resources into countering.
34. On balance, there is a greater public interest in the information being released in its complete form. This would assist all stakeholder’s understanding of the factors and options considered by the College to avoid speculation and confusion. Also, it would ensure the public is provided with all the relevant context and rationale.

**The Commissioner's conclusion**

35. Having taken all the arguments into account, the Commissioner's decision is that the balance of the public interest favours maintaining the exemption. The College was therefore entitled to rely on section 22(1) of FOIA to withhold the information requested.

## **Right of appeal**

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36. 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)

37. 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.
38. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

**Joanna Marshall**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
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