

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 11 December 2023

**Public Authority:** The Governing Body of the University of Leicester

**Address:** Maurice Shock Building  
University Road  
Leicester LE1 7RH

#### **Decision (including any steps ordered)**

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1. The Commissioner's decision is that the University of Leicester ('the University') isn't entitled to withhold information about spending on student housing that it owns and operates under section 43(2) of FOIA. This is because disclosing the information wouldn't be likely to prejudice its commercial interests or those of its students.
2. The University must take the following step to ensure compliance with the legislation:
  - Disclose the information the University holds that falls within scope of Q1 of the complainant's request.
3. The University 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. The complainant made the following information request to the University on 23 June 2023:

1. Revenues and spending on university owned/operated student housing for the academic year 2022/23 and 2021/2022
  2. Average price of rent per week and per year for students in 2022/23, and also cheapest and most expensive prices per week
  3. Average price of rent per week and per year for students in 2023/24, and also cheapest and most expensive prices per week
  4. Number of places for students in halls this coming year
  5. How much has rent increased this year?
  6. How much has rent increased by over the last ten years?
  7. How many applications for accommodation were received for the coming year, and of those, how many were accepted or rejected?
5. In a response to the request on 11 July 2023 the University addressed four of the complainant's questions. It applied section 43(2) of FOIA to Q1 and advised it doesn't hold the information requested in Q6 and Q7.
  6. The complainant requested an internal review the same day in respect of Q1, Q2 and Q3. They said that the University hadn't provided the average figures requested for Q2 and Q3.
  7. The University provided an internal review on 24 October 2023. Its final position was that the information requested in Q1 is exempt from disclosure under section 43(2) of FOIA. It provided the average figures for Q2 and Q3.

### **Reasons for decision**

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8. On the basis of the complaint to the Commissioner, this reasoning covers the University's application of section 43(2) of FOIA to Q1 of the request. He'll consider the matter of the University's handling of the internal review under 'Other matters.'

### **Section 43 – commercial interests**

9. Section 43(2) of FOIA states that information is exempt if its disclosure would, or would be likely to, prejudice the commercial interests of any person, including the public authority holding it.
10. The Commissioner has reviewed the correspondence between the complainant and the University and the complaint to him. But he's also

taken account of his decision in a separate, but related case IC-251077-B1C3<sup>1</sup>.

11. In its internal review of 16 October 2023, the University confirmed it was maintaining its reliance on section 43(2) in respect of Q1. It said that the Commissioner's published guidance on section 43 is clear that public bodies can have their own commercial interests. The guidance identifies procurement information as a 'type of information that may affect commercial interests.' The University said the commercial interests associated with the requested information are "its negotiations and purchasing position for the provision of services."
12. Discussing the public interest, the University said that housing investment and costs are a source of significant competitive advantage for universities. It said that accommodation is part of the University's overall competitive offer to students, who will be comparing accommodation with other institutions and accommodation provided by private providers. Like all Universities, the University of Leicester is operating within a competitive environment, and successfully managing its procurement activities is an essential part of its ongoing success.
13. The University also said it competes with private sector providers of accommodation services and these providers aren't subject to FOIA. Releasing the information into the public domain would prejudice the University as it wouldn't have access to reciprocal data about these private providers. Releasing the data could therefore adversely affect the free competition between providers. Disclosure to the wider world under FOIA would lead competitors to understand how and what benchmarks the University has set.
14. The information requested in Q1 is the revenue and spending figure for University owned and operated student housing for two academic years.
15. The Commissioner made a decision on this same information in relation to the University of Warwick – the decision in IC-251077-B1C3. He found that the information didn't engage section 43(2) and instructed the University of Warwick to disclose it.
16. For the same reasons, such that he doesn't intend to reproduce his reasoning here, the Commissioner finds that Q1 doesn't engage section

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<sup>1</sup> <https://ico.org.uk/media/action-weve-taken/decision-notice/2023/4026879/ic-251077-b1c3.pdf>

43(2) in this case. Since section 43(2) isn't engaged, it's not necessary to consider the associated public interest test.

## **Other matters**

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17. Providing an internal review isn't a requirement of FOIA but is matter of good practice. The Commissioner advises that an internal review should be provided within 20 working days of a request for one and, in the most complex cases only, within a maximum of 40 working days.
18. The complainant requested an internal review on 11 July 2023 which the University acknowledged on 13 July 2023. The complainant didn't receive a review and submitted a complaint to the Commissioner on 23 September 2023. The Commissioner accepted the complaint without a review having been carried out.
19. The University then provided the complainant with an internal review on 24 October 2023.
20. The Commissioner finds that there was an unnecessary delay in providing a review response on this occasion and he's recorded this for monitoring purposes.

## Right of appeal

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21. 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)

22. 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.
23. 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

**Cressida Woodall**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**