

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 29 February 2024

Public Authority: The Governing Body of the University of Leicester

Address: Maurice Shock Building
University Road
Leicester LE1 7RH

Decision (including any steps ordered)

1. The complainant has requested communications between the Vice Chancellor of the University of Leicester ('the University') and the Universities and Colleges Employers Association.
2. The Commissioner's decision is that the University doesn't hold the requested information for the purposes of FOIA and that it's entitled to rely on section 3(2)(a) of FOIA to refuse the request.

Request and response

3. The complainant made the following information request to the University on 12 August 2023:

"All the sent and received communications (whether internal, external, and regardless of the platform) of Nishan Canagarajah that are related, however tangentially, to Queen's University Belfast. Such search can be limited to exchanges that took place after the 1st of January 2023. The nature of this request includes, but it is not limited to: e-mail, physical correspondence, chat exchanges, messaging exchanges, etc."
4. The University's final position was that requested information was exempt from disclosure under section 41 of FOIA, which concerns information provided in confidence.

5. However, in its submission to the Commissioner the University has said that it has reconsidered the request. It now believes that it should be recognised that the Universities and Colleges Employers (UCEA) – to which the request relates – isn't a public authority for the purposes of FOIA and that therefore, the University can't be said to "hold" the requested information.

Reasons for decision

6. This reasoning will first consider whether the University holds the requested information under FOIA. If necessary, he'll also consider the University's application of section 41 to the information.
7. Under section 1(1) of FOIA a public authority must confirm whether it holds information that's been requested and communicate the information to the applicant if it's held and isn't exempt information.
8. Section 3 sets out the circumstances in which information is considered to be 'held' for the purposes of FOIA. Section 3(2)(a) states that information is held by a public authority if it's held by the authority, "otherwise than on behalf of another person."
9. The Commissioner interprets the phrase "otherwise than on behalf of another person" to mean that a public authority holds information for the purposes of FOIA if it's held to any extent for its own purposes.
10. In its submission the University has explained that the request relates to correspondence made between the Vice Chancellor in his role as a member of the UCEA Board and UCEA, regarding another organisation (Queens University, Belfast).
11. UCEA membership is voluntary, and the organisation provides its member institutions with advice and guidance on all employment and reward matters relevant to the UK Higher Education sector.
12. Membership is held at organisational level and enables the key nominated individuals in each organisation to participate and have access to UCEA materials.
13. The key nominated individuals are typically the Vice-Chancellor/head of organisation [such as Nishan Canagarajah in this case].
14. The University has noted that the requested correspondence between UCEA and the Vice Chancellor was sent in connection with the Vice Chancellor's role on the UCEA board, rather than any other position held at the University. The University wouldn't use this information – the correspondence – for its own separate purposes.

15. The University has referred to the Commissioner's recent decision in IC-260483-T4L2¹ in which this information was clearly judged not to be held for the purposes of FOIA.
16. For the reasons the University has given in its submission, and the reasons he explained in his earlier decision, the Commissioner is satisfied that the University wouldn't use for its own purposes any information it holds that's relevant to the request. Any such information held would be private communications between the Vice Chancellor and the UCEA.
17. The Commissioner is satisfied that the University doesn't hold the requested information for the purposes of FOIA and, therefore, it's entitled to rely on section 3(2)(a) of FOIA to refuse the request.
18. Since the Commissioner has found that the University doesn't hold the requested information for the purposes of FOIA, it's not necessary for him to consider the University's application of section 41 of FOIA to the information.

¹ <https://ico.org.uk/media/action-weve-taken/decision-notice/2024/4028172/ic-260483-t4l2.pdf>

Right of appeal

19. 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

20. 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.
21. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

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