

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 24 August 2016

**Public Authority:** University of the Arts London  
**Address:** 272 High Holborn  
London  
WC1V 7EY

#### Decision (including any steps ordered)

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1. The complainant has requested information from the University of the Arts London (UAL) relating to funding provided by UAL to its staff to attend educational programmes, legal claims made against UAL and the academic qualifications held by some of UAL's staff.
2. The Commissioner's decision is that the UAL has correctly applied section 12(1) and section 40(2) of the FOIA to parts of the request.
3. However the Commissioner requires UAL to provide the information requested by the complainant in first portion of part 22 of the request. Specifically, the name of the person who was responsible for 'dyslexia (disability) services in 2011, 2012 and 2013'.
4. The public authority must take these steps 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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5. On 19 October 2015 the complainant requested information of the following description:

*"I wish to make a freedom of information request for the following information:*

1. *In 2011 did the UAL provide funding for academic, technical or administrative staff to attend education programmes such as degree courses /masters' courses / phd courses? If yes, please state how many staff were provided funding, please provide their names, what their job title was and what course/s did they attended and at what institute.*
2. *In 2012 did the UAL provide funding for academic, technical or administrative staff to attend education programmes such as degree courses /masters courses / phd courses? If yes, please state how many staff were provided funding, please provide their names, what their job title was and what course/s they attended and at what institute.*
3. *In 2013 did the UAL provide funding for academic, technical or administrative staff to attend education programmes such as degree courses /masters courses / phd courses? If yes, please state how many staff were provided funding, please provide their names, what their job title was and what course/ s they attended and at what institute.*
4. *In 2014 did the UAL provide funding for academic, technical or administrative staff to attend education programmes such as degree courses / masters courses / phd courses? If yes, please state how many staff were provided funding, please provide their names, what their job title was and what course/s they attended and at what institute.*
5. *In 2015 did the UAL provide funding for academic, technical or administrative staff to attend education programmes such as degree courses / masters courses / phd courses? If yes, please state how many staff were provided funding, please provide their names, what their job title was and what course/ s they attended and at what institute.*
6. *In 2011 did UAL waiver academic course fees for members of staff on programmes of study at UAL and if so please state the names, which college within UAL they belong to and their job position?*
7. *In 2012 did UAL waiver academic course fees for members of staff on programmes of study at UAL and if so please state the names, which college within UAL they belong to and their job position?*
8. *In 2013 did UAL waiver academic course fees for members of staff on programmes of study at UAL and if so please state the*

- names, which college within UAL they belong to and their job position?*
- 9. In 2014 did UAL waiver academic course fees for members of staff on programmes of study at UAL and if so please state the names, which college within UAL they belong to and their job position?*
  - 10. In 2015 did UAL waiver academic course fees for members of staff on programmes of study at UAL and if so please state the names, which college within UAL they belong to and their job position?*
  - 11. Please provide the UAL documentation and guidelines which defined the term 'Academic Judgement' for use by UAL staff in the year 2012.*
  - 12. In 2011 how many academic appeals were issued by students at the London College of Fashion? How many were upheld by the exam board? How many were refused and what were the reasons for refusal?*
  - 13. In 2012 how many academic appeals were issued by students at the London College of Fashion? How many were upheld by the exam board? How many were refused and what were the reasons for refusal?*
  - 14. In 2013 how many academic appeals were issued by students at the London College of Fashion? How many were upheld by the exam board? How many were refused and what were the reasons for refusal?*
  - 15. In 2014 how many academic appeals were issued by students at the London College of Fashion? How many were upheld by the exam board? How many were refused and what were the reasons for refusal?*
  - 16. In 2012 how many legal matters were brought against UAL by students / ex students? How many of these matters were settled prior to legal proceedings? How many cases were settled after legal proceedings had started and what monitory sums were paid by UAL as settlement?*
  - 17. In 2013 how many legal matters were brought against UAL by students / ex students? How many of these matters were settled prior to legal proceedings? How many cases were settled after legal proceedings had started and what monitory sums were paid by UAL as settlement?*

- 18. In 2014 how many legal matters were brought against UAL by students / ex students? How many of these matters were settled prior to legal proceedings? How many cases were settled after legal proceedings had started and what monetary sums were paid by UAL as settlement?*
  - 19. What academic qualifications did [redacted information] have in the field of Photography, Fashion or Fashion Photography prior to 2012?*
  - 20. What academic qualifications did the Academic Registrar [redacted information] have prior to 2012 and in what field/area of study?*
  - 21. What academic or non academic qualifications did Head of Study Support [redacted information] have prior to 2012 and in what field/area of study?*
  - 22. Who was responsible for dyslexia (disability) services in 2011, 2012 and 2013 and what were their academic qualifications at that time and in what field/area of study?*
  - 23. When did the UAL Student Union create the Disabled and Dyslexic Students' Committee to help improve services for dyslexic students?*
  - 24. In which year were UAL lobbied and who by to address UAL inconsistencies in disability and dyslexic support? What inconsistencies did UAL agree with the lobbyists when they agreed to implement a single UAL disability service?*
  - 25. Has UAL a staff-training programme on disability equality? If so when did this programme begin and please provide the names of staff that have attended this programme, the year on which these staff attended and which college within UAL they belong to.*
  - 26. It there are training programmes for disability equality for UAL staff please provide the training programme documentation for years 2012, 2013, 2014 and 2015."*
6. On 18 November 2015 UAL responded. It denied holding information relating to parts 1-5 of the request but confirmed it held the remainder. Of the information it held, UAL withheld information relating to parts 19-22 of the request citing section 40(2). UAL stated that the academic qualifications of staff would be considered their personal data and therefore releasing it would be in contravention of the Data Protection Act 1998 (the DPA).

7. On 18 November 2015 the complainant requested an internal review as he believed that UAL had wrongly applied section 40(2). The complainant also disputed UAL's claim that it did not hold the information requested in parts 1-5 of the request.
8. The internal review upheld the application of section 40(2) to parts 19-22 of the request. It also clarified that the information relating to parts 1-5 of the request, which had originally been stated as 'not held' was held, but not in a centralised manner, and providing this information would exceed the cost limits specified in FOIA. Therefore UAL explained that this information was exempt under section 12 of the FOIA.

### **Scope of the Case**

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9. The complainant contacted the Commissioner on 11 January 2016 to complain about the way his request for information had been handled.
10. The complainant disputed UAL's application of section 12 and 40(2) to withhold information in response to the request.
11. The Commissioner has had to consider whether UAL was correct to apply section 12(1) to parts 1-5 of the request and section 40(2) to parts 19-22 of the request.

### **Reasons for Decision**

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#### **Section 12 – cost of compliance**

12. Section 12(1) allows a public authority to refuse to comply with a request for information if the authority estimates that the cost of compliance would exceed the 'appropriate limit', as defined by the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 (the Regulations).
13. This limit is set in the fees regulations at £600 for central government departments and £450 for all other public authorities. The fees regulations also specify that the cost of complying with a request must be calculated at the rate of £25 per hour, meaning that section 12(1) effectively imposes a time limit of 18 hours in this case.
14. In estimating whether complying with a request would exceed the appropriate limit, Regulation 4(3) states that an authority can only take into account the costs it reasonably expects to incur in:
  - a. determining whether it holds the information;

- b. locating a document containing the information;
  - c. retrieving a document containing the information; and
  - d. extracting the information from a document containing it.
15. The four activities are sequential, covering the retrieval process of the information by the public authority.
16. UAL explained that parts 1 – 5 of the request related to information regarding the educational programmes undertaken by specific members of UAL's staff. These details were recorded in each individual's file, and were not kept in a centralised manner. UAL confirmed that it had approximately 5000 current members of staff and also held files of former members of staff, and estimated that assessing each file would take approximately one minute per file, and therefore even the act of identifying whether an education programme had been pursued would exceed the time/cost limit specified in the FOIA.
17. The Commissioner notes that in its initial handling of the request, UAL did provide the complainant with advice and assistance in accordance with section 16 of the FOIA. UAL suggested the complainant narrow his request to make it possible to provide him with some more generic information about staff training budgets if there were particular areas which were of interest to the complainant. The Commissioner is aware that the complaint chose not to take up this advice.
18. Due to the very broad nature of information that has been requested and the fact that UAL does not have a centralised system in which it could perform a search, the Commissioner considers that the estimate provided is reasonable and he is therefore satisfied that complying with the request would exceed the appropriate limit. Therefore the Commissioner has determined that UAL was correct to apply section 12(1) of the FOIA to the request.

#### **Section 40 – Personal Data**

19. Section 40 of the FOIA specifies that the personal information of a third party must not be disclosed if to do so would contravene any of the data protection principles.
20. Taking into account his dual role as regulator of both the FOIA and the Data Protection Act 1998 (the DPA) the Commissioner has considered whether UAL was correct to withhold the academic qualifications of its staff.

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

21. Personal data is defined by section 1 of the DPA 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 the individual and any indication of the data controller or any person in respect of the individual..."*

22. In order for the exemption to apply the information being requested must constitute personal data as defined by section 1 of the DPA.

23. UAL has explained that though the academic qualifications of its staff does relate to their public role, the specific questions asked by the complainant crosses into their private lives. This is because the complainant has asked for information relating to when UAL staff acquired their qualifications, and UAL took the view that this information would be the personal data of its staff and therefore believed it to be exempt under section 40 of the FOIA.

24. The Commissioner is therefore satisfied that the information sought is personal data in accordance with section 1 of the DPA.

### **Would disclosure breach the data protection principles?**

25. The data protection principles are set out in schedule 1 of the DPA. The Commissioner considers that the first data protection principle is most relevant in this case. The first principle states that personal data should only be disclosed in fair and lawful circumstances, the conditions of which are set out in schedule 2 of the DPA.

26. The Commissioner's considerations below have focused on the issues of fairness in relation to the first principle. In considering fairness, the Commissioner must balance the reasonable expectations of the data subject and the potential consequences of the disclosure against the legitimate public interest in disclosing the information.

### **Reasonable expectations of the data subject**

27. When considering whether a disclosure of personal data is fair, it is important to take account of whether the disclosure would be within the reasonable expectations of the data subject. However, their expectations do not necessarily determine the issue of whether the

disclosure would be fair. Public authorities need to decide objectively what would be a reasonable expectation in the circumstances.

28. UAL explained that the data subjects would have a reasonable expectation that it would process their personal data securely and with confidentiality and in line with the DPA.

### **The consequences of disclosure**

29. When considering the consequences of disclosure, UAL explained that disclosure of the requested information would be an intrusion into the private lives of these staff members.
30. UAL did not provide any arguments regarding consequences of disclosure. However the Commissioner is aware that disclosure may cause some distress.

### **The legitimate public interest**

31. The Commissioner considers that the public's legitimate interests must be weighed against the prejudices to the rights, freedoms or legitimate interests of the individual concerned. The Commissioner has considered whether there is a legitimate interest in the public (as opposed to the private interests of the complainant) accessing the withheld information.
32. During the Commissioner's investigation, the job specifications for the roles in question were offered to the complainant.
33. However the complainant has argued that the provision of the job descriptions is very different to that of the provision of qualifications. Job descriptions do not guarantee the staff were or are professionally or suitably qualified for their positions nor does a job description allow for proper scrutiny of the UAL's hiring practice. Even if the job descriptions had explicit academic requirements, there is nothing to establish that the candidate who was accepted met those requirements or whether any criteria were relaxed or indeed whether the criteria were simply ignored altogether.
34. The complainant has also argued that the named individuals obtained employment at this public educational body in order to teach in a specific subject, which includes the assessment of this work in order to provide a publically recognised qualification. Therefore the complainant states that there is and can be no legitimate reason for these particular staff to want to expect to maintain a high level of privacy as to their qualifications.
35. With reference to parts 21 and 22 of the request, the complainant has stated that given the impact these specific positions can have on



disabled students, the importance for the public to know they are suitably qualified to take on board these critically important roles is beyond question. The complainant argued that the public interest in knowing who they are and/or whether they are suitably qualified to support students with disabilities is crucial when it can have such a profound impact on a disabled student's learning environment and wellbeing.

36. The Commissioner appreciates that there are significant arguments from the complainant in favour of disclosure, and considers that there is a general public interest in terms of the transparency and accountability of public sector organisations. However, the Commissioner does not consider that in this case any legitimate public interest extends to the disclosure of the academic qualifications requested by the complainant. This is especially so in light of the extremely detailed and personal nature of the information requested by the complainant.
37. In addition, the Commissioner considers that on balance the requirements for transparency have been met by the provision of the job specifications for the roles in question.
38. Therefore the Commissioner considers that disclosure of the requested information would be unfair.
39. On this basis, the Commissioner has determined that UAL was correct to apply section 40(2) to the request.
40. However, with reference to the first portion of part 22 of the request the Commissioner believes that person responsible for the dyslexia (disability) services in 2011, 2012 and 2013 would have a reasonable expectation that their name would be made public in connection with their professional capacity.
41. This is because the Commissioner would consider this to be a senior position within UAL, and taking into account the nature of the role would also consider that there would be considerable public interest in providing this information to the public. As such she does not consider that it would be a breach of the DPA to disclose this information.

### **Other matters**

42. The complainant has also stated that some of the information requested in part 19 of his request was previously disclosed by the University in response to an earlier information request by some other person.
43. The complainant therefore believes that the University should provide him with the information requested in parts 19 – 22 of his information request.

44. However, the Commissioner can only consider the facts of this specific case and considers that in this instance the information requested is exempt from disclosure.

## Right of Appeal

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46. 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)

47. 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.
48. 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** .....

**Rachael Cragg**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
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