

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 8 April 2021

Public Authority: The Governing Body of the School of Oriental and African Studies, University of London

Address: Russell Square
London
WC1H 0XG

Decision (including any steps ordered)

1. The complainant has requested information about the School of Oriental and African Studies' Southeast Asian Art Academic Programme. The School of Oriental and African Studies (SOAS) released some information, advised that it does not hold other information and withheld the remaining information under sections 36(2)(b)(ii) and 36(2)(c) of the FOIA (prejudice to the effective conduct of public affairs), section 41(1) (information provided in confidence) and section 43 (commercial interests). The complainant disputes that SOAS does not hold particular information and its application of the above exemptions to some of the information she has requested.
2. The Commissioner's decision is as follows:
 - On the balance of probabilities, SOAS does not hold information within the scope of part 5 of the request and holds no further information within the scope of part 6. SOAS has complied with section 1(1) of the FOIA in respect of those two parts.
 - SOAS is entitled to rely on section 36(2)(c) of the FOIA to withhold the information requested in part 2a of the request, some of the information requested in part 3 and the information requested in part 6. The balance of the public interest favours maintaining this exemption.

- SOAS breached section 10(1) of the FOIA in respect of part 3 of the request, and sections 10(1) and 17(1) in respect of part 6, because it did not fully comply with section 1(1) or issue a refusal notice within 20 working days of receiving these requests.
3. The Commissioner does not require SOAS to take any remedial steps.

Background

4. The matter of SOAS and a review that had been carried out of its Southeast Asian Academic Art Programme was the subject of the Commissioner's decision in FS50655251¹ in 2017. The Commissioner had found that although the requested information engaged the exemptions under section 36(2)(b) of the FOIA, the public interest favoured disclosing the information. That decision provides a background to the above Programme.

Request and response

5. In her complaint to the Commissioner, the complainant has provided the following further background. She has explained that the Southeast Asian Art Academic Programme (SAAAP) is a programme established in 2013 at SOAS through a £15 million donation from a private Chicago charity, the Alphawood Foundation. The SAAAP is governed by a Programme Board consisting of SOAS staff. In the minutes of its April 2019 meeting, the Programme Board decided that it needed to provide the Alphawood Foundation with a briefing on teaching at SOAS *"in order to demonstrate compliance with terms established in the Deed of Gift."*
6. On 25 September 2019 the complainant wrote to SOAS and submitted the request below. The Commissioner has redacted the name of one individual from the request as they no longer appear to be a member of the SAAAP Board or involved with SOAS. The names of the remaining individuals and their role on the SAAAP Board remain the same and are already in the public domain.

¹ <https://ico.org.uk/media/action-weve-taken/decision-notices/2017/2014702/fs50655251.pdf>

"I would like to make a request under the Freedom of Information Act on the topic of teaching in relation to the Southeast Asian Art Academic Programme (SAAAP).

In the minutes to the SAAAP Project Board meeting of 25 April 2019, agenda item 3 is related as follows:

SAAAP Academic Postholders' Teaching and Research

Briefing: SM [Prof. Shane McCausland] introduced this briefing paper, outlining the overall teaching and research load of the SAAAP-endowed postholders, prepared for submission to the Alphawood Foundation. This document was designed to provide detailed information on the activity of the Postholders this year in the context of the mission of the Programme.

VA [SOAS's Director, Valerie Amos] also noted that the Foundation had received the Teaching and Research Plan briefing document, which was received positively, but that they were seeking further detail on the postholders' teaching load specifically, including all modules taught and developed and further information related to teaching in the Academic Programme.

In order to demonstrate compliance with terms established in the Deed of Gift, a new and detailed briefing should be produced which addresses these queries.

TB [SAAAP Programme Board Chair Tamsyn Barton] noted that teaching loads and module focus, in the context of teaching across the Department, should be set out in depth in the subsequent briefing to prepared [sic] for Alphawood.

ACTION 160: LR [Programme Manager Liam Roberts] and SM to develop an updated Teaching Briefing over the next fortnight. "SAAAP Programme Board Minutes (April 2019)," p. 2. <https://www.soas.ac.uk/saaap/file141545.pdf>

I would like to request the following information.

- 1. Please provide the text of the briefing paper that was introduced by Prof. McCausland and is mentioned at the start of the above excerpt from the minutes.*
- 2. The second paragraph of the excerpt ends with the statement, "In order to demonstrate compliance with terms established in the Deed*

of Gift, a new and detailed briefing should be produced which addresses these queries.”

- a. Please provide the terms of the Deed of Gift to which reference was being made.*
 - b. Please state the date at which these portions of text were added to the Deed of Gift. If these portions include amendments to the original Deed of Gift, please indicate which is the earlier and which is the amended language.*
- 3. a. Please provide a copy of any written communication, during the period 1 April to present, sent by the Alphawood Foundation to SOAS, regarding teaching.*
 - b. If during the same period an Alphawood Foundation representative discussed teaching in person or by telephone, video or Skype with the Director or other SOAS staff, please provide copies or transcripts of any notes made by the Director and/or staff of SOAS.*
- 4. Please provide a copy of the new materials on teaching sent by SOAS to the Alphawood Foundation after the 25 April Project Board meeting.*
- 5. a. Please provide a copy of any written response by the Alphawood Foundation to the new materials as well as any follow-up written communications between SOAS and the Alphawood Foundation.*
 - b. If the Alphawood Foundation's representative(s) discussed the Foundation's response(s) with SOAS staff in person or by telephone, video or Skype, please provide copies or transcripts of any notes made by the Director and/or staff of SOAS.*
- 6. a. Please provide all written correspondence (defined below), from 1 April to present, sent or received by the eight below-listed individuals on any of the following topics:*
 - the briefing paper that was introduced by Prof. McCausland at the 25 April SAAAP Project Board meeting*
 - the Alphawood Foundation's views, statements or questions regarding teaching*
 - the new materials on teaching prepared by SOAS for the Alphawood Foundation*

1. Ms. Valerie Amos, Director of SOAS, Member of SAAAP Project Board
2. Dr. Tamsyn Barton, Chair of SAAAP Project Board
3. Dr. Heather Elgood, Member of SAAAP Project Board
4. Prof. Shane McCausland, Member of SAAAP Project Board
5. Dr. Ben Murtagh, Member of SAAAP Project Board
6. [Redacted], Member of SAAAP Project Board
7. Mr. Liam Roberts and his successors as SAAAP Programme Manager
8. Dr. Peter Sharrock, SAAAP Communications and Outreach Manager

Written correspondence should include formal and informal written communications including emails, letters, memos, SMS/text messages and messages sent by Whatsapp, Messenger or other messaging services,

- (i) between the listed individuals, and*
- (ii) between the listed individuals and other SOAS staff, Alphawood Foundation staff, or Mr. Fred Eychaner, founder of the Alphawood Foundation.*

Please include copies of all attachments (such as, for example, PDFs, jpgs, Word documents, and items linked via Google Docs or other filing systems) to the written correspondence.

b. If any of the eight listed individuals spoke with any Alphawood Foundation representative and/or Mr. Eychaner in person or by telephone, video or Skype on any of the listed topics, between 1 April and the present, please provide copies or transcripts of notes made by the listed individuals."

7. SOAS responded to the request on 18 November 2019. It addressed parts: 1, 2(b) and 4 of the request (with personal data redacted under section 40(2) of the FOIA) and released some information relevant to part 6 ie some correspondence. SOAS advised that it does not hold information relevant to part 5.
8. SOAS withheld the information requested in part 2(a) under sections 36(2)(c), 41(1) and 43(2). It withheld the information requested in part 3 and some information requested in part 6 under sections 36(2)(b)(ii), 36(2)(c), 41(1) and 43(2). SOAS confirmed it considered the public interest favoured maintaining these exemptions, where relevant.
9. The complainant requested an internal review on 18 December 2019. She considered SOAS held further information within the scope of her request – principally, it appears from what is a lengthy correspondence, parts 5 and 6 of the request. She also disputed SOAS' reliance on the exemptions it had applied to parts of the request (except for the section 40(2) exemption).

10. SOAS provided an internal review on 17 January 2020. It upheld its original response.
11. During the course of the Commissioner's investigation, SOAS withdrew its reliance on the exemptions it had cited with regard to a small amount of information covered by part 3 of the request – a covering email to a letter from SOAS to Alphawood dated 14 June 2019. SOAS advised it intended to release this information to the complainant on 6 April 2021.

Scope of the case

12. The complainant contacted the Commissioner on 17 March 2020 to complain about the way her request for information had been handled.
13. Having confirmed the scope of the complaint with the complainant, the Commissioner's investigation has first focussed on whether, on the balance of probabilities, SOAS holds information within the scope of part 5 of the request and whether it holds further information within the scope of part 6.
14. The Commissioner has then considered whether SOAS can rely on section 36(2)(c) of the FOIA, or any of the other exemptions it has cited, to withhold the information requested in parts 2a, 3 and 6 of the request. If appropriate to the exemption, the Commissioner has then considered the balance of the public interest.
15. Finally, the Commissioner has considered whether SOAS complied with section 10(1) and/or section 17(1) of the FOIA with regard to the timeliness of its response to parts of the request.

Reasons for decision

Section 1 – right of access to information held by public authorities

16. Under section 1(1) of the FOIA anyone who requests information from a public authority is entitled under subsection (a) to be told if the authority holds the information and, under subsection (b), to have the information communicated to them if it is held and is not exempt information.
17. SOAS advised the complainant that it does not hold information within the scope of parts 5(a) and 5(b) of the request.

18. In part 5, the complainant requested written responses by the Alphawood Foundation to particular new materials and any follow up communications between the Alphawood Foundation and SOAS. This included transcripts of the notes of any conversations between the SOAS Director or staff and any Alphawood representative, about any Foundation response to the new teaching materials
19. In her submission to the Commissioner, the complainant argues that if the Alphawood Foundation did not write to SOAS, then it must have provided its feedback verbally; however SOAS has stated that there are no written notes. The complainant does not consider it to be plausible that any SOAS staff member(s) who spoke to the Alphawood Foundation would not take any notes at all. Or that any staff member would not send a single email or message about the feedback to any of the many other individuals involved with the SAAAP, or that no one at SOAS wrote any note or memo about the Foundation's feedback. The Commissioner considers that the latter information is covered by part 6 of the request, rather than part 5.
20. In its submission to the Commissioner, SOAS has said that the information the complainant has requested in question 5 overlaps with the terms of questions 3 and 6. It has gone on to say that, in any event, it does not hold correspondence from the Alphawood Foundation about the disclosure to the Foundation of the new teaching activities document. Regarding records of notes made during or after any conversations between the Alphawood Foundation and SOAS, SOAS says that the Executive Assistant to the Director confirmed – in an email to the Information Compliance Manager – that no such notes were made by SOAS. This was after consulting with the Director, who acted as SOAS' point of contact with the Chief Executive of the Alphawood Foundation.
21. The Commissioner agrees with SOAS that there is some crossover between the information requested in part 5 of the request, and that requested in parts 3 and 6. Part 3 concerns communications from Alphawood about teaching and, as noted, part 6 includes an element that concerns correspondence about Alphawood's views on teaching matters. Part 3 and part 6 of the request will be considered separately.
22. SOAS' submission on part 5 is scant. If the Commissioner understands correctly, first, SOAS maintains its position that it does not hold any correspondence from the Foundation on the subject of its reaction to particular new teaching materials. Second, SOAS' Director is the point of contact with the Alphawood Foundation's Chief Executive. SOAS has indicated that there may have been conversations between the Foundation and the Director about the new teaching materials, but the Director has confirmed to their Executive Assistant, who advised the

Information Compliance Manager, that no notes were made of any such conversations. That information is therefore not held.

23. The Commissioner notes that SOAS has confirmed that it has not undertaken any searches for any relevant information. This is because, presumably, having liaised with its Director – its point of contact with the Alphawood Foundation's Chief Executive – SOAS considers it is confident that it holds no relevant information.

Conclusion

24. The Commissioner considers it is possible that, if Alphawood fed back to SOAS about its new teaching materials, Alphawood's Chief Executive would have only done so through SOAS' point of contact. She also considers that it is not out of the realms of possibility that any feedback was given verbally rather than in writing and that no notes were taken of any conversations. The Commissioner acknowledges that the complainant considers that this is very unlikely. However, SOAS' Director has confirmed that, if there had been discussion, no notes were made of conversations between Alphawood and SOAS. In addition, SOAS' position is that, except for some broadly relevant information related to parts 3 and 6 of the request, there is no recorded information within the scope of part 5 held elsewhere.
25. Other than the broadly relevant information it holds that falls within the scope of parts 3 and 6, the Commissioner has decided that, on the balance of probabilities, SOAS does not hold any other information that is specific to part 5 of the request and that SOAS has complied with section 1(1) in respect of that part.
26. In part 6 of the request, the complainant has requested communications to and from various members of the SAAAP Project Board about a variety of matters. SOAS released relevant correspondence it holds, withholding some of the information in the correspondence under various exemptions (which will be discussed below). The complainant considers that, in the circumstances, SOAS would hold further information relevant to this part of the request.
27. The Commissioner asked SOAS to confirm that, other than the information it has disclosed and that which it is withholding, SOAS holds no other information within the scope of part 6 of the request including in other media such as text messages and WhatsApp messages that the complainant noted in this part. The Commissioner also asked SOAS to explain the searches and discussions it had undertaken in order to confirm as such.

28. In correspondence to the Commissioner on 18 March 2021, SOAS confirmed that it holds no further information relevant to question 6. It noted that on 20 and 25 November 2019 (ie before the point at which she formally requested an internal review) the complainant had followed up SOAS' original response with further questions, including queries about the completeness of the correspondence it had provided in answer to question 6.
29. SOAS says it had replied to the complainant on 4 December 2019 after reverting to colleagues to ask again for relevant correspondence in their work email accounts. Further correspondence was provided, specifically:
 - One email from the Head of the School of Arts, to the Director, attaching a copy of the revised teaching briefing – this email was disclosed to the complainant in full.
 - A redacted email chain between the Head of the School of Arts, and the Director.
 - A redacted email chain between the Chair of the SAAAP Programme Board and lay trustee of SOAS, and the Head of the School of Arts.
30. SOAS says that the complainant made further follow-up queries on 5 and 6 December 2019, but those did not concern any further correspondence.
31. SOAS told the Commissioner that it relies on its staff to provide information from their email accounts in response to requests made under FOIA and other access regimes. But it says it does not actively monitor or check the content of staff email accounts for the purposes of answering requests made under FOIA or other regimes.
32. Part 6 of the request concerns correspondence between various SAAAP Project Board members. SOAS has confirmed that those Board members reviewed their email accounts and, at 4 December 2019, all relevant information that had been identified, and that was not exempt information, had been disclosed to the complainant.
33. SOAS subsequently confirmed to the Commissioner that it had asked all its staff and trustees named in the request to provide relevant information held on WhatsApp, SMS/text, Messenger or other messenger services, as well as notes and memos. For completeness, those individuals were also asked to provide any notes of conversations or transcripts of conversations as requested. SOAS advised, however, that it had not searched any other messaging services its staff may use, such as WhatsApp or text messages because relevant information held in such messages – if it was held – would not be held on SOAS' network.

Conclusion

34. The information relevant to part 6 of the request that SOAS identified through its investigations comprises the email exchanges that it has released to the complainant (with some information redacted) ie it holds no other relevant information. Based on SOAS' submissions, the Commissioner is satisfied that the appropriate individuals carried out appropriate searches and that, on the balance of probabilities, all the information that SOAS itself holds that is relevant to part 6 of the request has been identified. The Commissioner therefore finds that SOAS has complied with section 1(1) with regard to part 6.

Section 36 – prejudice to the effective conduct of public affairs

35. Section 36(2)(c) says that information is exempt information if, in the reasonable opinion of a qualified person, disclosure would otherwise prejudice, or would be likely otherwise to prejudice, the effective conduct of public affairs.
36. Section 36 differs from all other prejudice exemptions in that the judgement about prejudice must be made by the legally authorised, qualified person for that public authority. The qualified person's opinion must also be a "reasonable" opinion, and the Commissioner may decide that the section 36 exemption has not been properly applied if she finds that the opinion given is not reasonable.
37. Other than for information held by Parliament, section 36 is a qualified exemption. This means that even if the qualified person considers that disclosure would cause harm, or would be likely to cause harm, the public interest must still be considered.
38. SOAS is withholding under section 36(2)(c) the information it holds that falls within the scope of part 2(a), part 3 and some of part 6 of the request. Part 2(a) is for the terms of a Deed of Gift; part 3 is any communications (including notes of conversations) from Alphawood to SOAS about teaching from 1 April 2019 to 25 September 2019 and part 6 is part of the email exchanges between SAAAP Project Board members during the same period.
39. SOAS has provided the Commissioner with a copy of the information it is withholding. The information relevant to part 2(a) is an extract - two paragraphs - from the 'Deed of Variation September 2016'. SOAS has told the Commissioner that it has not previously disclosed these paragraphs. SOAS considers these paragraphs are protected by clauses 8 and 9 of the Deed of Gift which cover the confidentiality of information in the Deed, and related correspondence. The information relevant to part 3 of the request is a letter from Alphawood to SOAS' Director dated

24 April 2019 and a response from SOAS to Alphawood dated 14 June 2019. The information relevant to part 6 is certain information contained in various SAAAP Board member email exchanges from April/May 2019, the remainder of which has been disclosed to the complainant.

40. To determine, first, whether SOAS correctly applied the exemption under section 36(2)(c), the Commissioner must consider the qualified person's opinion as well as the reasoning that informed the opinion. Therefore, in order to establish that the exemption has been applied correctly the Commissioner must:
 - ascertain who was the qualified person or persons
 - establish that an opinion was given by the qualified person
 - ascertain when the opinion was given; and
 - consider whether the opinion was reasonable.
41. SOAS has sent the Commissioner a copy of its 'Record of the Qualified Person's Opinion' form ('the submission form'). This states that the qualified person (QP) at the time of the request was Professor Stephen Hopgood, SOAS' Director. The Commissioner is satisfied that, in line with section 36(5) of the FOIA, it was appropriate for Professor Hopgood to act as the QP.
42. Turning to the second of the above criteria, the submission form evidences that the QP confirmed the likelihood, in his opinion, of disclosure of the requested information causing the effect set out under section 36(2)(c) (and section 36(2)(b)(ii)). The Commissioner is therefore satisfied that an opinion was given by the QP.
43. The request was submitted on 25 September 2019. The submission form evidences that the original QP's opinion was given on 1 November 2019. SOAS refused the request on 18 November 2019 and upheld its position in its internal review of 17 January 2020. As such, the Commissioner is satisfied that the QP's opinion was given at the appropriate time.
44. Finally, the Commissioner has considered the fourth of the criteria - whether the opinion given was reasonable. It is important to note that this is not determined by whether the Commissioner agrees with the opinion provided but whether the opinion is in accordance with reason. In other words, is it an opinion that a reasonable person could hold? This only requires that it is a reasonable opinion, and not necessarily the most reasonable opinion. The test of reasonableness is not meant to be a high hurdle and if the Commissioner accepts that the opinion is one that a reasonable person could hold, she must find that the exemption is engaged.

45. In order for the QP's opinion to be reasonable, it must be clear as to precisely how the envisioned prejudice may arise. In her published guidance on section 36 the Commissioner notes that it is in the public authority's interests to provide her with all the evidence and arguments that led to the opinion, in order to show that it was reasonable. If this is not done, then there is a greater risk that the Commissioner may find that the opinion is not reasonable.
46. In the submission form that it provided to the QP, SOAS included: a summary of the request, confirmation that the requested information was shown to the QP, arguments as to why prejudice/inhibition would or would be likely to occur and counter arguments and public interest factors (which will be discussed below).
47. With regard to the exemption under section 36(2)(c), the QP's opinion is not absolutely clear. On the form the option for 'would occur' has been ticked but the accompanying narrative notes prejudice that 'would be likely to occur'. In the Commissioner's view, the QP's concluding opinion appears to be that effective conduct of public affairs would be likely to occur because it would be likely to disrupt the delivery of the South East Asia Arts Programme.
48. Elsewhere in the form, it is argued that disclosing the information withheld under section 36(2)(c) *would be likely to*:
 - disrupt the delivery of the programme and would disrupt the relationship with the donor
 - endanger teaching posts and student scholarships, and risk funding not being renewed
 - escalate any dispute between the donor and SOAS, damaging SOAS' reputation and its relationship with its major donor; and
 - risk disrupting current and future relationships with other donors through damage to SOAS' reputation.
49. In the Commissioner's view, the submission form sent to the QP does not make a strong case that the envisioned prejudice would (definitely) occur. As such, the Commissioner is going to make her determination based on the lower level of likelihood – that the envisioned prejudice would be likely to occur. 'Would be likely' is a lower standard than 'would' but it means that the chance of prejudice is still significant and weighty, and certainly more than hypothetical or remote.
50. On that basis, the Commissioner is satisfied that the QP had sufficient appropriate information about the request and the exemptions in order

to form an opinion on whether reliance on the provision under section 36(2)(2)(c) was appropriate.

Conclusion

51. The Commissioner has noted the evidence at paragraph 46 and, since she is satisfied that the remaining points at paragraph 40 have also been addressed, she must accept that the QP's opinion ie that the envisioned prejudice would be likely to occur, is one a reasonable person might hold. She therefore finds that SOAS can rely on section 36(2)(c) of the FOIA to withhold information relevant to parts 2a, 3 and 6 of the request.
52. In her submission to the Commissioner, the complainant has presented a number of arguments for why the above opinion is not reasonable and why, therefore, section 36(2)(c) is not engaged. As the Commissioner has noted, the test for reasonableness is not a high hurdle. Neither the Commissioner nor anyone else has to agree with the QP's opinion; it simply has to be an opinion that a reasonable person could hold. For the reasons discussed above, the Commissioner finds that the QP's opinion – that prejudice to the effective conduct of public affairs would be likely to occur if the information was released – is a reasonable opinion.
53. The Commissioner has gone on to consider the public interest test.

Public interest test

Public interest in maintaining the exemption

54. In the submission form sent to the QP, SOAS notes that the SAAAP benefits the public by supporting teaching and research in South Asian Art studies, through the endowment of posts and financial support for students. SOAS argues that disclosing the information would damage its relationship with the donor. This would have significant adverse consequences for pedagogy and research in this area; for current students who are supported and for prospective students who may be supported by the programme in the future.
55. SOAS also argues that disclosing the information may also set a precedent for disclosing robust discussions between higher education providers and their partners. SOAS considers it is reasonable to expect partners to have a safe space in which to express views away from interference, in order to resolve issues and foster improved relations. In SOAS' view, the public benefits from open and honest relationships between higher education providers and their partners.

56. Finally, SOAS argues that higher education providers have a right to build relationships with philanthropic donors which benefit the public through improved teaching, research and accessibility to education without being forced to do so in a 'goldfish bowl'.

Public interest in disclosing the information

57. In the same submission form, SOAS acknowledges that there is a public interest in it being transparent about how it manages the gift from one of its largest donors.
58. In her submission to the Commissioner, and in relation to section 36(2)(c), the complainant argues that there is a public interest in understanding university-donor discussions, so that how public institutions use resources and funds can be monitored.

Balance of the public interest

59. The request in FS50655251 concerned information about an important, external review that had been carried out of the SAAAP. The Commissioner noted that the SAAAP was (and is) funded by one of the largest recorded donations ever made to a UK institute of higher education. SOAS had also relied on 'safe space' and 'chilling effect' public interest arguments, which the Commissioner did not accept. Taking these factors into account, the Commissioner decided that the public interest in that case favoured releasing the particular information requested.
60. The current request broadly concerns first, a briefing paper produced by SOAS for Alphawood providing an update about the activities of SAAAP-endowed postholders. The request also concerns new teaching materials, including Alphawood's reaction to these. The information being withheld comprises related correspondence between Alphawood and SOAS, parts of related correspondence between SAAAP Board members and extracts from the Deed of Gift/Deed of Variation.
61. The Commissioner has taken account of the QP's opinion that disclosing the withheld information would be likely to cause the inhibitions described. This carries a certain amount of weight through to the public interest test.
62. However, as in FS50655251, the exact weight that should be given to maintaining the exemption depends on the particular circumstances of the case. This means that, whilst the Commissioner accepts that the QP's opinion that inhibition would be likely to occur is reasonable, she must also consider the severity, extent and frequency of that inhibition in order to determine where the balance of the public interest lies.

63. As with the exemptions under section 36(2)(b) in the earlier case, the Commissioner notes there is also a public interest inherent in section 36(2)(c), being a prejudice-based exemption, in avoiding harm to the decision-making process. She has taken into account that there is automatically some public interest in maintaining this exemption to avoid such harm.
64. In the earlier case, the Commissioner had not accepted the 'safe space' and 'chilling effect' arguments that SOAS had presented. This was because the withheld information comprised comments and opinions about the external review. While there was work still ongoing as a result of the review's recommendations, the review itself had concluded. The Commissioner was therefore not persuaded that SOAS still needed a 'safe space' to exchange comment and opinion to inform the review, as the review had been completed at the point of the request.
65. In this case, the matter of the new teaching materials and SOAS' compliance with the Deed of Gift/Deed of Variation were being discussed at SOAS' meeting in April 2019. The published SAAAP Board minutes from 27 June 2019 show that conversations with Alphawood about the development of the programme were still ongoing at that point. The complainant submitted her request in September 2019. The Commissioner notes from published minutes that the development of the Programme and proposed conversations with Alphawood continued to be discussed at the 7 November 2019 SAAAP Board meeting. As such, at the time of the request the matters that are the subject of the request could still be considered to be 'live'.
66. The Commissioner agrees with the complainant that there is a general public interest in institutions like SOAS being transparent in how it uses funds donated to it. However, she considers that this general interest is satisfied through information that SOAS routinely publishes, such as general information and news about the Programme, information about Alphawood Scholarships and minutes of the SAAAP Board meetings.
67. The Commissioner considers that there is a strong public interest in SOAS being able to focus on discussing and resolving sensitive matters with its donor privately, while those discussions were ongoing. This would be likely to ensure good and productive relationships were maintained between SOAS and Alphawood, and between SOAS and other current and prospective donors in the future. This must be in SOAS' and, in this case, Alphawood's best interests, as well as the best interests of SOAS' current and future students. Having considered all the circumstances, the Commissioner finds, on this occasion, that at the time of the request the public interest in maintaining the section 36(2)(c) exemption was greater than the public interest in releasing the information being withheld.

68. Since the Commissioner has found that the information being withheld engages the section 36(2)(c) exemption, it has not been necessary to consider the section 36(2)(b)(ii), 41(1) or 43(2) exemptions.

Section 10 – time for compliance / Section 17 – refusal of request

69. Under section 10(1) of the FOIA a public authority must comply with section 1(1) promptly and within 20 working days following the date of receipt of the request.
70. Under section 17(1) a public authority that is relying on a claim that requested information is exempt information must provide the applicant with an appropriate refusal notice within the time for complying with section 1(1) ie within 20 working days.
71. In this case, the complainant submitted her request on 25 September 2019. SOAS did not release all the information it holds that is relevant to part 6 of the request or provide a refusal notice in respect of the information it was withholding, until 4 December 2019. It did not release some information it holds that it is relevant to part 3 of the request until 6 April 2021. SOAS therefore breached sections 10(1) and 17(1) in respect of these elements of the request.

72. **Right of appeal**

73. 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@justice.gov.uk
Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

74. 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.
75. 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

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