

**Freedom of Information Act 2000 (FOIA)  
Environmental Information Regulations 2004 (EIR)  
Decision notice**

**Date:** 9 November 2022

**Public Authority:** The Council of the University of Wolverhampton  
**Address:** Wulfruna Street  
Wolverhampton  
WV1 1LY

**Decision (including any steps ordered)**

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1. The complainant has requested information about fees received from West Midlands Ambulance Service. The University of Wolverhampton ("the University") relied on the exemption under section 43(2) of FOIA (commercial interests) in order to withhold the information it did hold.
2. The Commissioner's decision is that the University has correctly relied on section 43(2) of FOIA and that the balance of the public interest favours maintaining the exemption. He requires no steps to be taken.

**Request and response**

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3. On 10 July 2022 the complainant made a request to the University for information relating to West Midlands Ambulance Service University NHS Foundation Trust internal students sent to the University as part of their paramedic programme. The information requested was in the following terms:
  - 1) "How much does West Midlands Ambulance Service University NHS Foundation Trust pay the University of Wolverhampton per year, per student, on the new two year level 6 Bachelor degree with honours?"
  - 2) What is the total cost to the University of Wolverhampton, per year, per student in delivering the new two year level Bachelor degree with honours for each student?

- 3) Can you provide an itemised breakdown of each element that these fees go towards?"
4. The University responded on 5 August 2022 relying on section 43 of the FOIA to withhold the information, a position it upheld at internal review.

### **Reasons for decision**

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5. Section 43(2) FOIA exempts information the disclosure of which would, or would be likely to, prejudice the commercial interests of any person (ie an individual, a company, the public authority itself or any other legal entity). In order for such information to be exempt, a public authority must show that, because it is commercially sensitive, disclosure of it would, or would be likely to, prejudice the person's commercial interest. The exemption is qualified, so where the exemption is engaged it is then necessary to apply a public interest balancing test.
6. In this case the Commissioner accepts the information is commercial in nature as it relates to a financial transaction between the University and the Ambulance Trust. However, the University must prove there is a possibility of a commercial prejudice to itself or a third party if the specific information were to be disclosed. In this case the University has argued the alleged prejudice would occur to both its own and the Ambulance Trust's commercial interests if the information were disclosed.
7. The First-Tier Tribunal has considered whether Universities and Colleges operate in commercial environments before in [EA/2009/0034](#) and it was concluded that there can be a competitive environment at colleges and universities. This does not mean that any commercial information held by a University will automatically be exempt.
8. The University has argued that in the Tribunal case it was found that a body that depends on student fees to remain solvent has a commercial interest in maintaining the assets upon which the recruitment of students depends. Going further, the Tribunal also commented that the University in that case was operating within a competitive environment where other institutions of higher education were also seeking to sell similar products ie undergraduate degree courses.
9. The Commissioner notes the University has argued that if the information were disclosed it would reduce its ability to negotiate or compete in a commercial environment but has not expanded on how this would be the case. The University has pointed to another decision of the First-Tier Tribunal [EA/2011/0188](#) in which the Judge commented that:

"If the commercial secrets of one of the players in the market were revealed then its competitive position would be eroded and the whole market would be less competitive with the result that the public benefit of having an efficient competitive market would be to some extent eroded".

10. The University further argued that the disclosure of information may cause unwarranted reputational damage to the University and/or another organisations whose information it holds, which may in turn damage its commercial interests through loss of trade.
11. The Commissioner considers the University's arguments to be somewhat lacking, however he has considered this exact issue before when a request for identical information was made to a different University. His decision in that case (IC-194107-X8Q4) concluded that the information was commercial in nature. The Commissioner noted his understanding in that case that the Ambulance Service allowed staff to enrol in a degree course with the University who would then educate and train those staff. In turn the Ambulance Service pays, or contributes to, the fess of those staff.
12. The Commissioner does not intend to repeat all his arguments here as they can be found in his earlier decision notice. He concluded that the University would want to maximise its income and revealing the per-student fee and the other information would put it at a commercial disadvantage, particularly as re-tendering would be occurring after the end of the initial period of agreement.
13. Turning to the public interest; as in the other decision referred to here the complainant's main argument for disclosure was the public interest in transparency as the University spends public money. The Commissioner accepted this argument but considered this could be met by other means such as the University's audits and published accounts.
14. The Commissioner concluded the balance of the public interest favoured maintaining the exemption and withholding the requested information – a position he also supports in this case as there are not additional arguments from either party to persuade him otherwise.

## Right of appeal

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15. 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)

16. 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.
17. 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 .....**

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