

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 2 March 2024

Public Authority: The Governing Body of AECC University College

Address: Parkwood Campus, Parkwood Road
13-15 Parkwood Road
Bournemouth BH5 2DF

Decision (including any steps ordered)

1. The complainant has requested communications between AECC University College's senior management team and the Universities & Colleges Employers Association. AECC University College ('the University') originally refused the request under section 43(2) of FOIA (commercial interests). Its position now is that it doesn't hold the requested information.
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.
3. It's not necessary for the University to take any corrective steps.

Request and response

4. The complainant made the following information request to the University on 20 August 2023:

"Part A.- Any received or sent communications between the following two parties and subject to the conditions explained afterwards:

Party 1: UCEA (the term UCEA shall be understood comprehensively, including but not limited to their regular updates, exceptional updates, consultation queries, matters related to the UCU dispute, etc.)

Party 2: Any of the 'Senior Management Group' people described in: <https://www.aecc.ac.uk/about/who-we-are/senior-management-group/>

A1.- When fulfilling this request, please include any follow up discussions between members of your institution that arise upon receipt of a communication from Party 1. This can be understood as e-mail chains, forwarding UCEA e-mails, internal replies or memorandums, etc.

A2.- Please limit the search and disclosure to events that took place after the 1st of January, 2023.

Part B.- "The UCEA Code for Participating Employers", a document issued by UCEA to its members (including LSTM)."

5. The University responded on 11 September 2023 advising that it was refusing to disclose the information under section 43(2) of FOIA. It confirmed that position in its internal review of 10 October 2023.
6. Following the complaint to the Commissioner, the University reconsidered its response. Its position now is that it doesn't hold the requested information.

Reasons for decision

7. This reasoning will therefore focus on whether the University holds the information requested on 20 August 2023 under FOIA.
8. 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.
9. 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 a public authority holds information if it's held by the authority, "otherwise than on behalf of another person."
10. 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.

11. The request in this case relates to correspondence to the Universities & Colleges Employers Association (UCEA). It's similar to a request submitted to the University of Central Lancashire, reference IC-260483-T4L2¹ and another submitted to the University of Leicester, reference IC-268384-G4M3².
12. From these earlier decisions, the Commissioner understands that membership of UCEA 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.
13. Membership is held at organisational level and enables the key nominated individuals in each organisation to participate and have access to UCEA materials.
14. The key nominated individuals are typically the Vice-Chancellor/head of organisation, such as the senior management team in this case.
15. As in the earlier cases, the Commissioner understands that the requested correspondence concerns the senior management team's membership of UCEA, rather than any other position those members hold at the University. The University wouldn't use any such information – correspondence – for its own separate purposes.
16. For the reasons he explained in his earlier decisions, the Commissioner is satisfied that the University wouldn't hold any relevant information for its own purposes. Any such information held would be private communications between members of the senior management team 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.

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

² <https://ico.org.uk/media/action-weve-taken/decision-notice/2024/4028765/ic-268384-g4m3.pdf>

Right of appeal

18. 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

19. 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.
20. 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