



Ref. FOI/20210205/03

21 April 2021

Reply to request for information under the Freedom of Information Act	
Your ref	Email of 5 February 2021
Request	<p>This is a request under the Freedom of Information Act 2000 (FOIA). Please provide any information that you hold answering to any of the following descriptions:</p> <ol style="list-style-type: none"><li>1. Any application you made in 2019 or 2020 to be a "Stonewall Diversity Champion" or to be included on Stonewall's "Workplace Equality Index," including any attachments or appendices to those applications. Please redact personal details if necessary.</li><li>2. Any feedback you received in 2019 or 2020 from Stonewall in relation to either application or programme.</li><li>3. Any other communication you have received from Stonewall in 2019 or 2020 unless privileged or otherwise exempt from disclosure (but if you claim privilege or exemption in relation to any material, please say in broad terms what the material is and the basis on which you claim to be entitled to withhold it).</li><li>4. Full details of any equality impact assessment you carried out connected with any of these applications (including any equality impact assessment carried out prior to an earlier application of the same kind, if no further assessment was done).</li><li>5. Details of the total amount of money you paid to Stonewall (i) in 2019; (ii) in 2020, whether or not as payment for goods or services.</li><li>6. Whether you intend to continue your membership of any Stonewall scheme in the future, and if so which.</li></ol>

Dear E Pasternack

I write in reply to your email of 5 February, requesting the above information, to provide an update to points 2 and 3 of your request.

The University holds the information requested. However, we will not disclose it, as we believe that it is exempt from disclosure under section 41 of the Freedom of Information Act (FOIA). Section 41(1) provides that information is exempt from disclosure if:

- a) it was obtained by a public authority from another person, and
- b) the disclosure of the information to the public by the public authority holding it would constitute an actionable breach of confidence.

We believe that section 41 applies in this case as the University is bound by a confidentiality agreement with Stonewall. The feedback on the University's application for the Workplace Equality Index (WEI), and communications relating to this application, were provided to the University in the expectation that they would

treated as confidential. Therefore, should the University disclose this information under FOIA (and therefore to the world at large), it would breach its duty of confidentiality to Stonewall, which would be able to pursue a successful claim against the University for such a breach.

Maintaining confidentiality is also important to ensure ongoing confidence in the WEI scheme. Were this information to be made public, it could allow organisations an unfair advantage in applying for the WEI, which could undermine confidence in the scheme. Stonewall would therefore suffer detriment were the University to breach its duty of confidentiality by disclosing the feedback.

The exemption in section 41 is an absolute exemption; it is not subject to the public interest test provided for in section 2(2)(b) of the FOIA. However, under the common law, a duty of confidentiality can be overridden if there is a sufficiently strong public interest in the disclosure of the information concerned. This public interest test is the reverse of that normally applied under FOIA; it assumes that the information should be withheld unless the public interest in disclosure outweighs the public interest in maintaining the duty of confidence. We consider that in this particular case, there are no public interest considerations sufficient to override the inherent public interest in maintaining the duty of confidence.

### **INTERNAL REVIEW**

You may request an internal review of this response by e-mailing [foi@admin.ox.ac.uk](mailto:foi@admin.ox.ac.uk). A request for internal review should be submitted no later than 40 working days from the date of this letter.

### **THE INFORMATION COMMISSIONER**

If, after the internal review, you are still dissatisfied, you have the right under FOIA to apply to the Information Commissioner for a decision as to whether your request has been dealt with in accordance with the FOIA. You can do this online using the Information Commissioner's complaints portal.

Yours sincerely

**Information Compliance Team**