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www.officeforstudents.org.uk

June 2019

Dear Abdul,

Request for information under the Freedom of Information Act (FOIA) 2000 – S2019/1221

Thank you for your recent FOI request, copied here for ease of reference.

Can you send me the LIS application for degree awarding powers along with any supporting documents and any communication between them and you?

Under section 1(1) of the FOIA you are usually entitled to be told whether we hold any information that falls within the scope of your request and, if we do, to have that information provided to you except where it is covered by an exemption. Copied below is your request, for your convenience.

I can confirm that we hold information that falls within the scope of your request. However, I consider that this information is exempt on the basis of section 36 of the Freedom of Information Act, as explained below.

Notice of Refusal issued under Section 17 FOIA - Section 36 Prejudice to the effective conduct of public affairs.

Section 36 provides an exemption when the disclosure of information would or would be likely to prejudice the effective conduct of public affairs by inhibiting the free and frank provision of advice or exchange of views or any other prejudice to the effective conduct of public affairs.

The relevant parts of the exemption that apply to information that relates to the method of assessment for degree awarding powers is set out below:

1. Section 36(2)(b)(ii) which applies when disclosure of information would, or would be likely to, inhibit the free and frank exchange of views for the purpose of deliberation.
2. Section 36(2)(c) which applies when disclosure of information would, or would be likely to, otherwise prejudice the effective conduct of public affairs.

Qualified person

Under the Act, section 36 is only engaged where it is the 'reasonable opinion of a qualified person' that disclosure would inhibit or prejudice the effective conduct of public affairs. As Chief Executive, I have been designated as the qualified person under section 36 in relation to information requested from OfS.

Nature of the prejudice

The disclosure of correspondence, case work, and detailed information in relation to the degree awarding powers and OfS' assessment and review process for registration and degree awarding powers would allow providers to modify their applications and evidence to fit with the requirements of the assessment methodology making it difficult for OfS to give an objective view on the suitability of the provider.

Public interest considerations

Section 36 is a 'qualified exemption'. This means that, having concluded that the exemption is engaged, OfS is obliged to consider whether or not it is nevertheless in the public interest to disclose the information. The following public interest factors both for and against disclosure were considered:

a) In favour of disclosure:

- There is a public interest in transparency about how OfS carries out its public functions, and how decisions are arrived at, for example by enabling more detailed public scrutiny of the method and manner of assessment processes and the advice sought from OfS regarding eligibility for registration/degree awarding powers.

b) Against disclosure:

- Disclosure of information connected with the method and manner of our assessment would harm the integrity of the registration or degree awarding powers review process by making available information which could be used to gain advantage or pervert the process, which would not be in the public interest. In this regard, guidance documents on the general application and review process for registration and degree awarding powers, are available online and provide a good level of information relating to the assessment process;
- There is a public interest in ensuring that OfS can fulfil its public functions;
- Disclosure of information relating to provider registrations and degree awarding powers applications would inhibit the free and frank correspondence between OfS and providers for the purposes of deliberation, and this would impede the registration and degree awarding powers process. This would have a negative impact on providers seeking to engage with the OfS. And if providers stop engaging with OfS this would adversely affect students.

I have concluded that the balance lies in favour of not disclosing this information. If providers were not able to have an informal preliminary discussion with OfS about their intentions, without that discussion being disclosed, it would inhibit them from speaking with us. That in turn would prejudice our ability to regulate effectively; and would inhibit free and frank exchange of views and intentions.

Copyright and appeals

The following section explains our standard approach to copyright and provides details of our FOI appeals process in case you are dissatisfied with our response.

Some of the information that we provide in response to requests under the Freedom of Information Act will be subject to copyright protection. In most cases the copyright will be owned by OfS. The copyright

in other information may be owned by another person or organisation, as indicated in the information itself.

You may use any information supplied for your own use, including for non-commercial research purposes. The information may also be used for the purposes of news reporting. However, any other type of re-use, for example, by publishing the information or issuing copies to the public will require the permission of the copyright holder.

Please note that it is your responsibility to determine whether there are any obligations of confidentiality or other legal obligations which restrict your ability to make onward disclosure of this material.

If you think that an exemption has been wrongly applied or you are otherwise dissatisfied with our response you may submit an appeal to OfS' FOI Appeals Panel. We will need to receive your appeal within two calendar months of your receipt of this letter. After this time, we will consider your request for information closed.

Should you wish to appeal, please write to:

Freedom of Information Officer
Office for Students
Nicholson House
Lime Kiln Close
Stoke Gifford
Bristol
BS34 8SR

Or email us at: foi@officeforstudents.org.uk

Please state the reasons for your appeal. The Chair of the Appeal Panel will contact you to advise you of the outcome. Further details of the internal appeal process are available on our web-site: <https://www.officeforstudents.org.uk/contact/how-to-request-information-from-us/how-to-appeal/> . A printed copy is available on request.

If you are unhappy with the outcome of your appeal to OfS

Under section 50 of the Freedom of Information Act you have the right to complain to the Information Commissioner if you believe that your request has not been handled correctly. The Information Commissioner will not consider your complaint unless you have first been through our appeals process. The Information Commissioner can be contacted at:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Tel.: 0303 123 113 or 01625 545745

E-mail: casework@ico.org.uk (please note that this e-mail may not be secure)

We would encourage you to contact the ICO to confirm time limits for the submission of complaints.

You can find out more about the Freedom of Information Act and how it affects you from the Information Commissioner's website: <http://www.ico.org.uk/>.

Yours Sincerely,

A handwritten signature in black ink that reads "Nicola Dandridge". The script is cursive and fluid, with the first name "Nicola" and last name "Dandridge" clearly distinguishable.

Nicola Dandridge
Chief Executive, Office for Students