

Our Reference: FOI/2014/04/149

UNIVERSITY OF
BIRMINGHAM

Legal Services

Miss Ortega
What Do They Know

Director
Mrs C M E Pike LLB
Solicitor

(By Email)

19 June 2014

Dear Miss Ortega

Re: request for information under The Freedom of Information Act.

Further to your request for information dated 28 April 2014 please find attached the University of Birmingham's response. If you have any queries with regard to this letter, please do not hesitate to contact me.

Please note our statement in respect of Copyright, which is also attached.

If you are unhappy with the manner in which your request has been dealt with, you may ask for an internal review. A copy of the Complaints and Appeals procedure is attached. If you are not content with the outcome of the internal review, you have a right to apply directly to the Information Commissioner for a decision.

Yours sincerely

Freedom of Information Team
University of Birmingham

Encs

Your request for information read:

1. In the past three years have to you sought or successfully pursued any legal action, civil, disciplinary or criminal, against participants in 'protests' such as occupations at the university, this could include (but is not limited to) injunctions against occupations or trespass cases?

a. Please provide all documents relating to these cases. Details should include, but not be limited to, any affidavits, witness statements and other evidence given support of such an injunction.

2. How much money has the university spent (including but not limited to) on these cases. Please provide a breakdown by case, and if possible costs, e.g. court fees, legal expenses, etc.

3. How many disciplinaries have you conducted against students for protest related offences in the past 3 years?

4. How many of the aforementioned disciplinaries against students have been upheld (where the student have been found 'guilty')?

5. Please provide copies of any injunctions relating to protest situations (including but not limited to occupations) which you have taken out in this time period.

The University of Birmingham responds:

The University of Birmingham is required to respond to a request made under the Freedom of Information Act 2000, if it holds the information being requested and it is not appropriate to apply one of the limited exemptions.

1. In the past three years have to you sought or successfully pursued any legal action, civil, disciplinary or criminal, against participants in 'protests' such as occupations at the university, this could include (but is not limited to) injunctions against occupations or trespass cases?

Please provide all documents relating to these cases. Details should include, but not be limited to, any affidavits, witness statements and other evidence given support of such an injunction.

In the last three years the University has not sought or pursued any criminal proceedings against participants in protests such as occupations.

With respect to disciplinary cases please see the answers to questions 3 and 4 below.

Please see question 5 below for information about civil action that has been pursued.

2. *How much money has the university spent (including but not limited to) on these cases. Please provide a breakdown by case, and if possible costs, e.g. court fees, legal expenses, etc.*

The University confirms that the total costs incurred in obtaining and enforcing the court order preventing “occupational protests” on campus in relation to the 2013 protests was £27,457.00 + VAT. The costs included:

- fees for Legal advice,
- Counsel fees,
- Agents fees,
- Court fees, and
- Fees relating to the enforcement.

The total costs incurred in 2011 to obtain a court injunction preventing “occupational protests” on campus were £14,403.20 + VAT. The costs included advice in respect of the fire safety and health and safety risks of the occupation, and the legal responsibilities of the University in that situation, together with the costs of obtaining the possession order and injunction.

3. *How many disciplinaries have you conducted against students for protest related offences in the past 3 years?*
4. *How many of the aforementioned disciplinaries against students have been upheld (where the student have been found 'guilty')?*

The University does not publish information about students who have been disciplined for protest related offences. Please see the Refusal Notice below which explains why the University is not providing any information in relation to questions 3 or 4.

5. *Please provide copies of any injunctions relating to protest situations (including but not limited to occupations) which you have taken out in this time period.*

Please see the attached document. The Refusal Notice below explains why signatures on these documents have been redacted.

Refusal Notice

Reasons for non-disclosure

Section 40 (2) – Freedom of Information Act 2000 – Personal Information

Section 40(2) of the Act provides an exemption to the duty to disclose information where the information requested constitutes the personal data of a third party and where one of the conditions set out in section 40(3) is satisfied. The condition Section 40(3)(a)(1) is met if disclosure of personal information would contravene one of the data protection principles.

Section 40 (2) is an absolute exemption under the Act, and there is no need to apply the public interest test.

Personal data is defined as data which relate to a living individual who can be identified from that data, or from data and other information which is in the possession or likely to come into the possession of the University.

Questions 3 & 4 - The individuals who are subject to this part of your request would have an expectation that the information that is being requested here, would not be placed in the public domain. This data is classed as Personal Data that should be protected under the provisions of the Data Protection Act 1998 and does not relate directly to their role within the University, and therefore is exempt from disclosure by virtue of Section 40(2) of the Act.

Question 5 – the signatures that have been redacted are classed as personal data of those individuals. These individuals would not expect this information to be placed in the public domain and it is therefore exempt from disclosure by virtue of Section 40(2) of the Act.

When deciding whether to disclose information the University is required to consider the Data Protection Principles. The University considers that release of the information being requested would be a breach of the First Data Protection Principle – “Data must be fairly and lawfully processed”.

The University considers that the condition set out in Section 40(3)(a) is satisfied, namely that the information falls within the definition of personal data and its disclosure to a member of the public would contravene one of the data protection principles, namely the First Data Protection Principle – “Data must be fairly and lawfully processed”. The University considers that the First Data Protection Principle would be contravened as none of the conditions for processing set out and defined in Schedule 2 to the Data Protection Act 1998 are met.

University of Birmingham
Freedom of Information

COMPLAINTS AND APPEALS PROCEDURE

Complaints and Appeals against a Refusal Notice issued in response to a request for information must be made in writing to the University's Information Compliance Manager (address given below). Complaints in respect of the University's Publication Scheme can be made in the same way.

Complaints and Appeals will be acknowledged within five (5) working days of receipt. The Information Compliance Manager will then refer the matter to the University's Director of Legal Services or nominee for consideration. If the Director of Legal Services was involved in responding to the request at the first stage, then the University's Registrar & Secretary or nominee will be asked to investigate the matter.

The Director of Legal Services or the Registrar & Secretary as appropriate may, after having sought further information from the members of staff involved in dealing with the original request, seek to resolve the issue on the basis of the documentation submitted. Where the Director of Legal Services or the Registrar & Secretary requires further clarification, he/she may decide to meet with the members of staff involved in dealing with the original request.

A full response to the complaint will normally be sent direct to the Complainant(s) within fifteen (15) working days, or in the case of a complex review, especially when the public interest test is involved, within thirty (30) working days.

If, having received this response, the Complainant(s) remains dissatisfied, s/he may make an appeal to the Information Commissioner at the address below.

Addresses for Correspondence

Information Compliance Manager
Legal Services
The University of Birmingham
Edgbaston
Birmingham
B15 2TT

Or: foi@contacts.bham.ac.uk

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK95AF

The University of Birmingham

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