

Legal Compliance  
Students and Education  
Directorate

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Jane Clout

By Email only to: [request-138299-3e558aba@whatdotheyknow.com](mailto:request-138299-3e558aba@whatdotheyknow.com)

Wednesday, 12 December 2012

Dear Ms Clout,

**Freedom of Information Act 2000 request – Evidence of threats to staff member**

In response to your request for information relating to threats made to a staff member, dated 14 November 2012, made under section 1(1) of the Freedom of Information Act 2000 ("the Act"), I am writing to provide confirmation that the information you requested exists but some of it is exempt under Section 40 (5) (Personal Information) of the Act. Please find further details below.

You asked the following:

*"...please tell me of any illegal threats that you have on file, have had sight of, or are aware of in other ways, from activists working on behalf of M.E. patients or the M.E. patients themselves.*

The Act gives a right of access to information held on record by the College; it does not apply to knowledge or information which is not recorded, such as opinions. As such the College can only confirm that it holds a record of threats made to Professor Wessely from a range of individuals.

You further asked:

*Please also tell me whether each threat has been seen in the original or is on file in your office in the original or as a copy, or is something you have merely been informed of."*

As indicated, the Act only requires a public authority to confirm whether or not information is held, and to provide access to the information (subject to any exemptions) where access is requested. The College has confirmed that the information you have referred to is held by the College. We do feel it is irrelevant who has seen the records or where they are located, or even how the information has come to the attention of the Legal Compliance Team. Further, this is not something which the College believes falls within the scope of the Act. King's College London is committed to efficient records and information management and the College policy is available online at:

[http://www.kcl.ac.uk/college/policyzone/assets/files/information\\_policies/RIM\\_Policy\\_FINAL.pdf](http://www.kcl.ac.uk/college/policyzone/assets/files/information_policies/RIM_Policy_FINAL.pdf).

All records are stored in line with the College Records and Data Retention Schedule, which is a list of specific categories of records and how long they should be retained. The Schedule covers records used for business, research and administrative purposes and provides guidance on legal recordkeeping requirements. It also helps identify vital and historically important records, which are suitable for transfer to the College Archives.

You further asked:

*“Please also tell me if you are aware if Professor Simon Wessely has taken any legal action with regard to this alleged intimidation”*

The College has taken this to mean any private legal action, including reporting threats to the police, by Professor Wessely.

Section 40 (5) (Personal Information The duty to confirm or deny)- allows the College to neither confirm nor deny that it holds any records relating to your request where that information could contravene any of the Data Protection Principles in the Data Protection Act 1998.

In particular, we believe that the first Data Protection Principle (Personal data shall be processed fairly and lawfully) would be contravened, were we to confirm or deny the existence of these records and that it would not meet any of the conditions for the fair processing of personal data in Schedule 2 of the DPA.

FoI requests which involve personal data on third parties will usually revolve around consideration of Condition 6 in Schedule 2. This specifies that processing of personal data will be fair if it is *“necessary for the purposes of the legitimate interests pursued by the data controller [i.e. the College] or by the third party or parties to whom the data are disclosed, except where the processing is unwarranted by reason of prejudice to the rights and freedoms or legitimate interests of the data subject”*.

In this case we do not believe that the disclosure of whether or not the College holds information about any legal action initiated by Professor Wessely is necessary to satisfy a legitimate public interest, or that there is a public interest in disclosure which sufficiently justifies the prejudice to the rights of the individual concerned. We further believe that if we were to disclose what you have requested, this would be likely to discourage other employees from reporting any actions that they may have taken, or concerns which they may have, regarding threats and intimidation which, would in turn prevent the College from fulfilling its obligations in respect of the health and safety of its employees. Therefore, for the reasons outlined above and with due consideration of the Public Interest Test we have decided to use Section 40 (5), to neither confirm nor deny that this information exists.

This completes your request for information.

If you feel your request has not been properly handled or you are otherwise dissatisfied with the outcome of your request, you have the right to complain. Details of how to make a complaint can be found in our FoI Policy, a copy of which is available on our web site at:

<http://www.kcl.ac.uk/college/policyzone/index.php?id=209>.

Further information is also available from the Information Commissioner at:

Information Commissioner's Office

Wycliffe House

Water Lane

Wilmslow

Cheshire

SK9 5AF

Tel: 01625 545 700

[www.ico.gov.uk](http://www.ico.gov.uk)

Yours sincerely

A handwritten signature in black ink that reads "Anne Cameron". The signature is written in a cursive style with a large, stylized 'A' and 'C'.

Anne Cameron

Legal Compliance Manager