

Information
Management and
Compliance
Directorate of
Students and
Education

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Mr Ben Clayton

By Email: request-234955-d5bbb154@whatdotheyknow.com

Tuesday, 11 November 2014

Dear Mr Clayton,

Freedom of Information Act 2000 request – A100 Medicine Interview criteria

In response to your request for information dated 20 October 2014, made under section 1(1) of the Freedom of Information Act 2000 ("the Act"), I am writing to confirm that the information you require does exist but that we are unable to provide it to you as we consider it to be exempt information under Part II of the Act.

More precisely we considered that the exemption under section 43(2) of the Act applies (Commercial interests).

This exemption allows information to be withheld if it "would, or would be likely to, prejudice the commercial interests" of any body, including the interests of the public authority receiving the request.

You asked the following:

"1. Under the Freedom of Information Act I kindly request the interview criteria used in interviews for A100 Medicine for 2014 entry including a copy of the interview form used by interviewers."

The College is refusing to answer your request as we believe disclosing detailed interview criteria would put the College at an unfair disadvantage in that this information could be used by our competitor institutions to their own commercial advantage in their admissions process.

In addition, releasing this information would give an applicant an unfair competitive advantage over other applicants and would enable applicants to 'game the system' by giving them additional time to practice their interview answers. This would consequently have a detrimental impact on the College's selection process, which is intended to select applicants based on qualifications and demonstrated ability.

We believe that there is a strong public interest in universities being able to run rigorous admissions processes, particularly in the case of programs like Medicine where many students go on to work in the NHS. As we have indicated, we believe that the integrity of our admissions processes would be undermined by the release of

this information. While there is a public interest in the release of information that explains how universities' interviews operate, that has to be balanced against the need to ensure the selection of the best candidates rather than those who are adept in shaping their interview to fit the College's processes.

The First Tier Tribunal (Information Rights) has accepted that universities operate in a competitive environment and can have commercial interests.¹ Guidance issued by the Office of Government Commerce states that prejudice to commercial interest will generally mean 'detriment to the ability to do business' and that this "could involve giving commercial advantage to the competition and/or loss of shareholder/customer/supplier confidence."²

The prejudice test in sec.43 requires that it should be likely that release would, or is likely to, harm the College's commercial interests. The harm need not be substantial but should not be completely trivial; and while the likelihood of prejudice need not be certain, there should be a significant risk of harm rather than a remote possibility.³

While we understand that this information may be useful to you, the Higher Education sector operates in a commercial and highly competitive environment. Unlike many other types of public authorities subject to the Freedom of Information Act, they are in direct competition with each other. Universities in the UK are also in competition with overseas institutions, and certain private service providers, neither of whom are subject to the Freedom of Information Act.

Section 43 is a qualified exemption and requires us to consider whether the information requested should be disclosed in the public interest (notwithstanding it is believed that disclosure of the requested information would be likely to prejudice the commercial interests of the third party). Testing the public interest involves balancing factors for and against disclosure to decide whether the interest in maintaining the exemption is greater than the interest in disclosing the information.

Therefore we consider that the factors supporting non-disclosure in the public interest under Section 43 outweigh the factors in support of disclosure in the public interest.

For further information on the entry requirements for this course please see the following website:

<http://www.kcl.ac.uk/prospectus/undergraduate/medicine/entryrequirements>

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.

¹ University of Central Lancaster v Information Commissioner and David Colquhoun (EA/2009/0034), 8 December 2009.

² https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/62062/ogc-foi-civil-procurement-guidance.pdf

³ *Freedom of Information Act Awareness Guidance No. 5 – Commercial Interests* (Information Commissioner's Office, March 2008):

http://www.ico.gov.uk/upload/documents/library/freedom_of_information/detailed_specialist_guides/awareness_guidance_5_v3_07_03_08.pdf

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

Yours sincerely

A handwritten signature in black ink, appearing to read 'Sarah Crampton', with a long horizontal flourish extending to the right.

Sarah Crampton

Legal Compliance Officer