

Reference FOI2019-20-089(R)

Cranmer Terrace,
London, SW17 0RE

Switchboard:
+44(0)20 8672 9944

www.sgul.ac.uk

22 November 2019

We write to respond to your recent request for an internal review of our Freedom of Information response FOI2019-20-060 (Appendix A).

Request for review 26 October 2019

Thank you for providing some of the information, this is very helpful. However, with regards to the figures for Elsevier, I disagree with your reasoning and believe that you can (and should) release the information. I have sent the same request to all higher education institutions in the UK, and the majority have now responded to the request by releasing the data – including for Elsevier.

Although the contract for the Elsevier ScienceDirect Journals Agreement includes a clause regarding the release of expenditure figures, it explicitly allows the release of data if you are subject to a Freedom of Information request. This is why most institutions have already released the information.

As a reminder, you have already released expenditure figures for Elsevier in previous years:
https://www.whatdotheyknow.com/request/elsevier_journal_subscription_co_17#incoming-573173 and
https://www.whatdotheyknow.com/request/academic_journal_costs_577#incoming-949804. The full dataset for all institutions in previous years is available at <https://doi.org/10.6084/m9.figshare.1186832.v23> and
<https://doi.org/10.6084/m9.figshare.4542433.v6>.

Since negotiations with Elsevier for journal agreements occur on a sector-wide level through a single central negotiator – Jisc Collections – it is not in your institution's interest for figures to remain secret. Indeed, full transparency of these figures can show your institution how much comparable institutions are paying, allowing you to understand whether you are receiving appropriate value from your payments. The current situation is almost complete transparency with regards to the amounts paid by UK institutions to most of the major journal publishers, including Elsevier. This means that any secrecy is solely to the advantage of Elsevier against their competitors, because their competitors' data is already available. It seems to me that to release figures for other publishers but not Elsevier is not in the interest of fair competition.

Finally, I believe there is a high public interest in releasing the data, as evidenced by the high level of engagement with earlier data releases (<https://figshare.altmetric.com/details/2726745>) and news articles about it (<https://www.timeshighereducation.com/news/spending-on-subscriptions-to-journals-rises-by-up-to-50/2016635.article>). It has directly informed UK government policy documents (<https://www.gov.uk/government/publications/open-access-to-research-independent-advice-2018>). The publishing sector is moving towards greater transparency, such as through the forthcoming Plan S requirements (<https://www.coalition-s.org/principles-and-implementation/>). To be accountable for the expenditure of public funds, and to align your practices with best practice across the sector, I urge you again to release the information.

Response

1. We received your FOI request on 23 September 2019 asking for amounts paid to ten academic publishers for 2017, 2018 and 2019.

2. We responded to your request in time within the twenty working day deadline, disclosing figures for nine of the ten publishers listed.
3. We explained in our response that our contract with Elsevier required us to contact them regarding Freedom of Information requests, so that they are able to comment on disclosure, and a related link to journal pricing was included in our response from Elsevier.
4. Following consultation with Elsevier we claimed the figures for their payments as exempt citing, Commercial Interests (s43) and Confidential information (s41) within our response.
5. Our response included an appropriate description of our processes for managing Freedom of Information requests, including our internal review process and contact details for the Information Commissioner's Office.
6. We have returned to your original request of 23 September 2019 to re-evaluate our decision regarding Elsevier and payments made to them by St George's University of London, and would comment on your request for a review of 26 October 2019 as follows:
 - (a) The fact that similar data has been released in the past does not mean that we *should* release latest figures for Elsevier. Circumstances differ over time and this is not a valid reason to disclose the information.
 - (b) We have noted however that other publishers are disclosing their figures whilst Elsevier is not, and this may lead to unfair advantage of Elsevier in the wider market of publishers.
 - (c) We have resolved to release this data and would provide you with the following figures:

| Publisher | 2017 | 2018 | 2019 | Notes |
|-----------|-------------|-------------|-------------|-------|
| Elsevier | £143,701.44 | £148,265.69 | £150,433.51 | |

Whilst writing may I advise that if you are not happy with the way in which we have handled your request, you can appeal by writing to the Chief Operating Officer of the institution:

Paul Ratcliffe
 Chief Operating Officer
 St George's University of London
 Cranmer Terrace
 Tooting
 London
 SW17 0RE

The Information Commissioner has authority and responsibility under the Freedom of Information Act and you can contact the Information Commissioner's Office by email at casework@ico.org.uk or at the following address:

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

For more information see the website of the Information Commissioner's Office
<https://ico.org.uk/for-organisations/guide-to-freedom-of-information>

May I ask you to direct future FOI requests for SGUL to the generic email address FOI@sgul.ac.uk the sake of expediency.

Please do not hesitate to contact me with any further queries.

Yours faithfully

Sheila Durkin
Governance Manager

APPENDIX A

Reference FOI2019-20-060

18 October 2019

Cranmer Terrace,
London, SW17 0RE

Switchboard:
+44(0)20 8672 9944

www.sgul.ac.uk

We write to respond to your recent Freedom of Information request.

Enquiry 23 September 2019

For the years 2017, 2018, and 2019, please publish the total amount paid to each of the following publishers for academic journals:

Wiley
Springer*
Elsevier
Taylor & Francis
Sage
Oxford University Press
Cambridge University Press
Nature Publishing Group*
Royal Society of Chemistry
Institute of Physics Publishing

I understand that your expenditure records may be held in academic financial years rather than calendar years. If so, I am happy for the response to be provided in the same format, with figures for 2016/17, 2017/18, and 2018/19. (Although 2019 has not ended yet, my understanding is that payments for access to journals for 2019 are likely to have all been made by now.)

The figures should include payments made directly to the publishers as well as any payments made to subscription agents or intermediaries for the purchase of, and/or access to, the publishers' academic journals. They should also include payment for journal packages such as Jisc Collections agreements, as well as for individual journals. Please include VAT where possible, and indicate whether or not figures include VAT.

* Although Springer Nature is the parent company for these two publishers, my understanding is that Springer journals and Nature journals are still paid for separately, so I think it makes sense to regard these as two different publishers with different expenditure amounts.

Response

| Publisher | 2017 | 2018 | 2019 | Notes |
|-----------|-------------------|-------------------|-------------------|---|
| Wiley | £62,779.07 | £65,606.37 | £66,691.59 | |
| Springer* | 16,740.94 Euro | 16,784.47 Euro | 16,419.42 Euro | <i>This is a read and publish agreement, cost is not solely for access to academic journals</i> |

| Publisher | 2017 | 2018 | 2019 | Notes |
|---------------------------------|------------|------------|------------|---|
| Elsevier | | | | <i>See separate paragraph on Elsevier below</i> |
| Taylor & Francis | £15,122.14 | £21,185.52 | £22,063.55 | |
| Sage | £21,471.48 | £22,040.76 | £23,321.40 | |
| Oxford University Press | £18,902.38 | £20,935.52 | £21,511.25 | |
| Cambridge University Press | £2,017.05 | £2,031.08 | £3,337.20 | |
| Nature Publishing Group* | £60,763.67 | £62,302.24 | £61,281.78 | |
| Royal Society of Chemistry | N/A | N/A | N/A | <i>No subscriptions held</i> |
| Institute of Physics Publishing | N/A | N/A | N/A | <i>No subscriptions held</i> |

Elsevier

PARTIAL EXEMPTION (FOI S41 and S43)

Our contract with Elsevier requires us to contact them regarding Freedom of Information requests so that they are able to comment on disclosure, and they have provided a link to their online advice on journal pricing located which may be useful to you:

- Journal pricing: <https://www.elsevier.com/books-and-journals/journal-pricing>

A disclosure of the amount of money spent by St George's, University of London on Elsevier e-journals constitutes a trade secret of Elsevier and confidentiality violation of the FOIA and would prejudice the commercial interests of Elsevier if such financial information will be disclosed:

Section 43 Commercial interests

- (1) Information is exempt information if it constitutes a trade secret.
- (2) Information is exempt information if its disclosure under this Act would, or would be likely to, prejudice the commercial interests of any person (including the public authority holding it).
- (3) The duty to confirm or deny does not arise if, or to the extent that, compliance with section 1(1)(a) would, or would be likely to, prejudice the interests mentioned in subsection (2).

The pricing information was deemed by Elsevier and St George's at the time the contract was entered into as Confidential Information and limits on its disclosure were specified in the contract. The Confidential Information includes the licensing fees negotiated between the publisher and St George's in specific circumstances. It also includes a level of discount. Disclosure of this information more widely could damage future negotiating positions for both organisations.

Confidentiality clauses serve a useful role for St George's, University of London and other institutions as they allow publishers to arrive at a fair and competitive negotiated and customized price for every customer. In a world with full pricing transparency, the best pricing model that publishers could offer is list price, or some variant of it. Thus, the end result is that some customers will pay more than they do today, and others less. But more importantly, the disclosure of pricing terms will inhibit publishers' ability to develop flexible, tailored solutions suitable for a particular customer's needs and it may even be detrimental to the customer's negotiations with other publishers. The revealing of pricing information may also lead to increased prices for some with unique circumstances such as

GDP, economic hardship, growth, length of relationship and other factors that work in their favor.

We have agreed with Elsevier not to disclose information from the license agreement with them which is deemed to be corporate proprietary information and/or trade secrets. The fact that other publishers have not required this of us is not admission as to whether this information truly constitutes a trade secret or not.

Section 41 – Information provided in confidence

(1) Information is exempt information if—

(a) it was obtained by the public authority from any other person (including another public authority), and

(b) the disclosure of the information to the public (otherwise than under this Act) by the public authority holding it would constitute a breach of confidence actionable by that or any other person.

(2) The duty to confirm or deny does not arise if, or to the extent that, the confirmation or denial that would have to be given to comply with section 1(1)(a) would (apart from this Act) constitute an actionable breach of confidence.

Section 41 exempts absolutely information obtained from another person if its disclosure would constitute a breach of confidence actionable by that person or any other person.

We have been informed by Elsevier that they would be happy to further discuss the financial information that is of interest to the FOI applicant and for what purpose, in order to better assist in the future.

Whilst writing may I advise that if you are not happy with the way in which we have handled your request, you can appeal by writing to the Chief Operating Officer of the institution:

Paul Ratcliffe
Chief Operating Officer
St George's University of London
Cranmer Terrace
Tooting
London
SW17 0RE

The Information Commissioner has authority and responsibility under the Freedom of Information Act and you can contact the Information Commissioner's Office by email at casework@ico.org.uk or at the following address:

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

For more information see the website of the Information Commissioner's Office
<https://ico.org.uk/for-organisations/guide-to-freedom-of-information>

May I ask you to direct future FOI requests for SGUL to the generic email address FOI@sgul.ac.uk the sake of expediency.

Please do not hesitate to contact me with any further queries.

Yours faithfully

Sheila Durkin
Governance Manager