

## Freedom of Information Request 094/14

*Response Date: 6<sup>th</sup> February 2014*

**Please can you send me the amount of money spent by the University Library on Elsevier products (hard copy journals and electronic journals) in each of the last 5 years.**

### **RESPONSE**

In relation to your request for the amount of money spent by the University Library on Elsevier products in each of the last five years, your request has now been considered and the University is not obliged to provide you with the requested information.

Section 17 of the Freedom of Information Act 2000 requires Swansea University, when refusing to provide such information (because the information is exempt), to provide the applicant with a notice which:

- (a) states the fact,
- (b) specifies the exemption in question and
- (c) states (if it would not otherwise be apparent) why the exemption applies.

In relation to your particular request, the following exemption applies:

### **Section 43(2) - Commercial Interests**

Section 43(2) refers to information being exempt from disclosure if its disclosure would, or would be likely to; prejudice the commercial interests of any person (including the public authority holding it).

Section 43(2) is a qualified and prejudice based exemption therefore the legislators accept that there may be harm if released. The authority has to consider and describe the harm that would occur if the information were released and carry out a public interest test.

The 'public interest' is not however, what the public may find interesting, there must be some tangible benefit to the community in such disclosure. Ultimately it must be something which serves the interests of the public. It is a requirement to identify all the factors which serve these interests and also those which do not, only then can a decision be made.

### **Overall Harm**

Disclosing the amount of money spent by the University Library on Elsevier products would reveal pricing information that was acknowledged by both Elsevier and the University at the time the contract was entered into as confidential information. Disclosure would reveal the licensing fees that have been negotiated in specific circumstances which may also include a level of discount.

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The disclosure of this information may damage Elsevier's future negotiating position with that of this University and the wider HE sector – which represents a large percentage of their market. Disclosure of this type may also damage the interests of the University should it wish to negotiate tailored solutions for licensing of Elsevier's content and discounts from list prices in the future.

### **Public Interest Considerations**

#### **Factors favouring disclosure**

There is a requirement to provide to the general public a better understanding of how public funds are spent. One of the underlying principles of the Act is the need for openness and transparency. In this case, there is a public interest in establishing that the University has negotiated a competitive rate in relation to the procurement of hard copy and electronic journals.

#### **Factors favouring non-disclosure**

Swansea University has a duty to protect the sensitive commercial information it holds about any individual authority or private company it has dealings with. Disclosing the amount of money spent by the University Library on Elsevier products would reveal pricing information that was acknowledged by both Elsevier and the University at the time the contract was entered into as confidential information. Disclosure would reveal the licensing fees that have been negotiated in specific circumstances which may also include a level of discount. The disclosure of this information may damage Elsevier's future negotiating position with that of this University and the wider HE sector – which represents a large percentage of their market. Disclosure of this type may also damage the interests of the University should it wish to negotiate tailored solutions for licensing of Elsevier's content and discounts from list prices in the future. To release such information may also affect the relationship the University has with Elsevier which could result in civil action taken against the University.

### **Balance Test**

In this case, there is a public interest in the use of public funds which needs to be weighed against the damage that would occur to the future negotiation position of both Elsevier and the University and the relationship the University has with its supplier. If we released the requested information, the commercial interests of a business may be compromised including that of Swansea University, along with the relationship the University has with its supplier.

Therefore, on balance, the factors favouring non-disclosure outweigh the factors favouring disclosure.

As such, the public interest favours non-disclosure of the information at this time. Therefore in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

This letter represents a refusal notice for this part of your request.

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Under Section 16 - duty to provide advice and assistance, Elsevier does make a lot of pricing information publically available by clicking on the public-facing pricing pages on Elsevier.com:

Journal pricing: <http://www.elsevier.com/librarians/journal-pricing>

Pricing of mathematics journals: <http://www.elsevier.com/physical-sciences/mathematics/journal-pricing>

**END OF RESPONSE**