



UNIVERSITY OF
LINCOLN

Our reference: 30129162425

11th March 2013

Mr John Williams

Email: request-146788-17fa43d4@whatdotheyknow.com

Dear Mr Williams

Freedom of Information Act – Application for Review

I write in response to your application for a review of the University's response to your request for information under the Freedom of Information Act 2000 (FOIA) dated 23 February 2013.

Your Original Request

Your original request under the Freedom of Information Act was framed as follows:

"Please supply me with the following information relating to the International Study Centre which I believe you operate in partnership with Study Group International Ltd for the following countries, Nigeria, Ghana, Cameroon, Senegal, Gambia, Guinea, Kenya, Uganda and Tanzania and for each published intake from September 2009 to September 2012.

- The number of students that you issued an Admission letter (CAS) to for each intake
- The number of students that started for each intake
- The number of students that you issued an Admission letter (CAS) to but did not start for each intake
- The number of students that absconded or left before completion of the course for each intake
- The number of students that progressed from the ISC to the University for each intake
- The number of students that graduated based on the number of students that started for each for each intake"

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Professor Scott Davidson
Deputy Vice Chancellor
Teaching, Quality &
The Student Experience

University of Lincoln
Vice Chancellor's Office
Brayford Pool
Lincoln LN6 7TS

T: +44 (0) 1522 886186
E: sdavidson@lincoln.ac.uk
W: www.lincoln.ac.uk

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The University's Response

On 20 February 2013, the University's Information Compliance Manager, Ann-Marie Noble, wrote to you confirming that the University of Lincoln holds the information you requested but advised you that it was withholding that information on the grounds that the University considered the exemptions under section 43(2), Commercial Interests, and section 40(2), Personal Information, of the FOIA applied to it and that in all the circumstances of the case, the public interest in maintaining the exemptions outweighed the public interest in disclosing the information.

Review Decision

Having reviewed your request and the University's decision on the issues raised, I am of the opinion that the University's decision in this matter should stand.

I agree with the University's finding that higher education institutions, as autonomous commercial actors, operate in a highly competitive market, particularly in the area of international student recruitment. In this context it should be noted that the Universities Colleges and Admissions Service (UCAS) no longer makes individual institutions' applications data available to the higher education sector because of potential infringement of competition law. This suggests that disclosure of independently held information regarding international students of the kind requested would, *a fortiori*, have potentially deleterious consequences in the market for international students for the University of Lincoln.

Further considerations also apply to the application of the commercial interests exemption. Study Group is an independent, private contractor to the University. It is well known that Study Group operates in a highly competitive commercial environment with other similar organisations such as INTO, Kaplan and Navitas, as well as other higher education institutions offering preparatory programmes for international students. As a commercial partner to Study Group the University is required to conform to good commercial practice and should not therefore disclose commercially sensitive information to a third party which may impair Study Group's competitive position. Furthermore, the University and Study Group are bound by contract not to disclose confidential information. Disclosure of commercially sensitive confidential information such as that requested could, without appropriate official sanction such as a court order, result in the University committing a breach of contract. This would also be contrary to well-understood notions of public policy.

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In the light of these commercial imperatives, I am of view that disclosure of the information requested is likely to prejudice both the University's and Study Group's commercial interests by revealing market sensitive information which could be used by competitors to both the University's and Study Group's market disadvantage. I am therefore of the opinion that the requirements of the exemption under section 43(2) FOIA are satisfied.

I also agree with the finding that, given the small number of applications from the countries you identify, disclosing the information requested could lead to the identification of particular individuals. This would be unfair and a breach of the Data Protection Act 1998, in particular the first data protection principle. I am therefore of the opinion that the exemption under section 40 FOIA is satisfied.

I am further of the opinion that the public interest test is satisfied and that the public interest in maintaining the exemptions outweighs the public interest in disclosing the information.

If you remain dissatisfied with the handling of your request you have a right to appeal to the Information Commissioner at:

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

Telephone: 0303 123 1113 Website: www.ico.gov.uk

Yours sincerely

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