



Reply to request for information under Freedom of Information of Act 2000	
Name of Requester	Elspeth V Moray
Contact Details	request-694318-3a6d200e@whatdotheyknow.com
Date Received	24 October 2020
Deadline for Response	20 November 2020

Information requested	<i>I now also ask for a copy of the contract (if you indeed have proprietary items of significance they may be redacted). Costs need not be as the GEO/Cabinet Office must publish them as they spend public monies. The work is done.</i>
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NTU confirms that it holds:	all of the information requested	✓
	part of the information requested	
	none of the information requested	
NTU neither confirms nor denies that it holds the information requested		

NTU is able to supply all of the information requested. The information (or links to the information if it is already published) set out below	
NTU is able to supply part of the information requested. The information (or links to the information if it is already published) set out below, together with the reason for the partial response.	✓
NTU is unable to supply any of the information requested. Reasons as set out below.	

Nottingham Trent University Response:

Further to your email dated 24 October 2020 requesting additional information under the Freedom of Information Act 2000, the University has considered your request. You sought a copy of the contract between the University and the Government Equalities Office (GEO).

Please find attached a copy of the contract the University holds with the Government Equalities Office. We are withholding some of the information from within the attached contract since the exemptions under Section 43(2) (Commercial interests), Section 40(2) (Personal information) and Section 41(1) (Information provided to the University in confidence) of the Freedom of Information Act apply. Please see Refusal Notices below. Therefore, in accordance with Section 17(1) of the Freedom of Information Act, this email also acts as a Refusal Notice in response to your request. I have annotated the contract to indicate the specific exemption relied on in the case of each section of text redacted.

Section 43(2) - Commercial Interests

The Section 43(2) exemption applies in this respect as information is exempt if its disclosure under the Act would, or would be likely to, prejudice the commercial interests of any person/company (this can include the University).

The University has concluded that releasing relevant redacted text into the public domain would be likely to prejudice the University's commercial interests.

The University was commissioned to analyse the responses to the consultation in response to a competitive tender. The contract contains a full copy of the University's tender submission to the GEO which includes details of the University's approach to such projects that it believes sets it apart from other tender submissions – and such an

approach has been developed over a number of years and was ultimately responsible for the University's success in the competitive tendering exercise. The higher education sector is a very competitive environment, and competition between institutions for research contracts is increasing further as a result of the changes which have taken place in the structure and source of funding for Higher Education over recent years. Placing this information into the public domain would provide other institutions who are competing for similar work with valuable information that would be likely to undermine the University's position in future tendering exercises and thereby likely to prejudice its commercial interests.

I have also considered the balance of public interest. There is a clear public interest in making information available to the public to promote transparency, in particular regarding the use of public funds. This in turn serves to support and maintain public confidence in universities and the undertaking of research. It is also in the public interest to ensure that the University can perform in this competitive market on a level playing field with other institutions tendering for comparable projects, and not be disadvantaged by disclosing its distinctive approach to such projects within the sector. The public interest resides in ensuring that tendering exercises remain competitive so that government tenderers obtain value for money. That competitive edge would be eroded by publishing details of the University's comparative advantage in performing the types of analyses required by the GEO. The information published by the GEO at the time the consultation was launched and the subsequent publication by the GEO of the analysis of the responses to that consultation fulfil the public interest in transparency and accountability. In all the circumstances of the case therefore, the public interest in maintaining the exemption outweighs the public interest in disclosure.

Section 40(2) – Personal Data

There is certain information within the contract relating to the team involved in the research project (biographies and names included in work packages) which amounts to personal data.

The Personal Data exemption applies when the request for information is made by someone other than the data subject and complying with the request would contravene any of the principles set out under the General Data Protection Regulation (GDPR). In this case the relevant principle is Article 5(1)(a) of the GDPR (fair and lawful processing). A disclosure is lawful in this case if it is in the legitimate interests being pursued by you or by the public, provided that those interests are not overridden by the rights and freedoms of the individuals concerned. Legitimate interests are transparency for using public funds and accountability with regard to the quality of research

There is no presumption in favour of disclosing personal data in response to a request under the Freedom of Information Act. The University considers that disclosure of this information would be unwarranted as the individuals who were involved in the project team had no reasonable expectation that their names and biography details would be disclosed to the public. In fact, given the sensitivities of the subject matter and individuals' vulnerability to campaigns of harassment, as already explained in previous correspondence with you, they participated in the project on the understanding that their identities would not be published and placing this information into the public domain is very likely to cause stress and anxiety to those individuals. As you will be aware, the three senior lead researchers published their names on the report in order to provide an appropriate level of transparency. Putting their personal data into the public domain would be unwarranted and unfair in the circumstances. Accountability and transparency have been achieved by equally effective, less-intrusive means i.e. the publication by the GEO of the analysis of the consultation responses including the methodology.



Section 41(1) Information provided in confidence by a third party

Annex B of the contract contains the GEO's specification which was received by the University subject to a duty of confidence. Disclosure in the circumstances would therefore amount to an actionable breach of contract and the University has not received consent to disclose this information. The University has concluded that there is no public interest warranting disclosure. The information contained in the analysis published by the GEO already fulfils the public interest in transparency and accountability, as indicated in public interests tests set out above.

Although the University cannot fully meet your request at this time, if you have any further information needs in the future, please do not hesitate to contact foi.enquiries@ntu.ac.uk.

You have the right to request an internal review following our decision. You can request an internal review by contacting foi.enquiries@ntu.ac.uk within 40 working days of the date of this response. Further information on the University's internal review procedure under Freedom of Information can be found at <https://www.ntu.ac.uk/about-us/governance/freedom-of-information>.

You also have the right, under Section 50 of the Freedom of Information Act 2000 to apply to the Information Commission for a decision as to whether your request for information has been dealt with in accordance with the requirements of Part 1 of the Act. The Commissioner will, however, normally require you to pursue an internal appeal to the University prior to considering such an application. You can find further information about FOI from the Information Commissioner at <https://ico.org.uk/>.

Yours sincerely

Lindsey Peggs
Legal Services

FOI Nottingham Trent University
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