

Our ref: FOI/2022/284

Name: Peter Riley
By email to: request-882365-619d9e68@whatdotheyknow.com

22 August 2022

Freedom of Information Team

Legal & Governance
University of Liverpool
Foundation Building
765 Brownlow Hill
Liverpool
L69 7ZX

E foi@liverpool.ac.uk
<https://www.liverpool.ac.uk/legal/>

Dear Mr Riley,

Your request for information received on 27 July 2022 has now been considered. A response is provided below.

Concerning the recent REF, two things. Firstly, will you confirm that the University has received “confidential feedback” on each Unit of Assessment (UoA) to which the University made a submission?

Yes

Secondly, will you please provide me a copy of that “confidential feedback” for each Unit of Assessment to which the University made a submission?

We can confirm that the University holds some information; however, it is withheld because it falls under Section 41(1) (Information provided in confidence) of the Freedom of Information Act (FOIA).

Section 41(b) states that information is exempt from disclosure 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.

Section 41(1)(a) requires that the requested information must have been given to the authority by another person. We confirm that the information was supplied to the University by Research England.

When determining if disclosure would constitute a breach of confidence, we have considered whether the information has the quality of confidence, whether it was imparted in circumstances importing an obligation of confidence, and whether disclosure would be unauthorised use of the information to the detriment of the confider.

a) Was the information imparted in circumstances importing an obligation of confidence?

It is the belief of the University that the confidential feedback on each Unit of Assessment received from Research England was imparted with an obligation of confidence.

b) Does the information have the necessary quality of confidence?

It is the belief of the University that disclosing the information would be damaging to the relationship between Research England and the University. This would impinge on our ability to conduct our internal affairs away from public scrutiny; removing the “safe space” that they need to discuss the feedback without public scrutiny. There is clearly an expectation that the information held is to be used to inform discussion in a safe space and would not be made available to a wider audience.

c) Would unauthorised disclosure be to the detriment of the confider?

We believe disclosure would be likely to be to the detriment of Research England. Research England issued the following guidance "In terms of how widely the confidential feedback can be shared, ... We would recommend that you control the circulation of the document as per operational need and do not forward on the document to all staff."

Any duty of confidence is subject to a public interest test which needs to be applied in relation to any request for disclosure. We believe there is no overriding public interest in disclosing this information. There are 3 circumstances under which confidential information may be disclosed.

These are when:

- the person to whom the duty of confidentiality is owed consents to the disclosure.
- the disclosure is required by law.
- there is an overriding public interest in such disclosure.

In the context of this request, the documents are the property of Research England, and consent has not been given to disclose this information. The University considers that in this case disclosure is not required by law. The University also considers that there is not an overriding public interest in such disclosure at this point. Any feedback with research active staff will be shared as part of messages that HoDs / Unit Heads send about REF outcome communications.

For the reasons outlined above, the University believes that the balance lies in favour of refusing the information at this time. This acts as our Refusal Notice

If you are unhappy with the way we have handled your request for information, you have a right under Section 50 of the Freedom of Information Act to ask the University to review it; however, you must do so within 40 working days of the date of this response. Your request should include our reference number and explain the reason for requesting a review. Email foi@liverpool.ac.uk or write to the Freedom of Information Reviewer, Legal & Governance, University of Liverpool, Foundation Building, 765 Brownlow Hill, Liverpool L69 7ZX. We will respond to your request for an internal review within 20 working days of receipt.

Following an internal review, 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 www.ico.org.uk. There is no charge for making an appeal.

Yours sincerely

Kirsty Rothwell

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Freedom of Information Officer / Data Protection Co-ordinator
Legal & Governance