

Mr Simon Briscoe

By email only to request-737611-24718c12@whatdotheyknow.com

16 April 2021

Dear Mr Briscoe,

Our ref: FOI-21-0072

Thank you for your correspondence of 18 March 2021, in which you requested the following information from the University of Sussex.

Request

Please can you send me all data and statistics you have about the LGBT+ student community at the university, now and for as many past years as possible? Can you please set out the sources, forms and surveys that are used to derive the data?

I could ask you to let me know what data you collect (sex, gender, sexual orientation etc) but I'd imagine that what I'm looking for will be in one of two formats: reports produced (for health teams, governing boards, LGBT workers or student societies etc probably as part of equalities monitoring) or information extracted from a database. Does that make sense? Are there other possibilities?

Ultimately I ask the question: "What do you know about the LGBT+ student community at the university, and how has it changed over time?"

Response

Your request has been dealt with under the Freedom of Information Act 2000 ("the Act").

The University does publish an Equality Duty Report annually (published here: <https://www.sussex.ac.uk/equalities/publications>), though this does not include sexual orientation or gender identity.

Any other statistical information systematically collected/recorded and held by the University relating to these areas is either already available from, or will be available in due course from, the Higher Education Statistics Agency ('HESA'), as data is provided to them annually as part of the University's statutory returns cycle.

The Higher Education Statistics Agency (HESA) collects data from Higher Education institutions, including through a number of annual returns relating to students, staff, finances etc. HESA publish a variety of reports and sector wide data which can be found here: <https://www.hesa.ac.uk/data-and-analysis>. Where tailored data sets are required, including data for particular institutions, requests can be made to the data analytics directorate (a joint HESA and JISC team) here: <https://www.jisc.ac.uk/tailored-datasets>.

As the information is already accessible (or due for future publication), your request is exempt under section 21 and 22 of the Act.

You can find out more about the relevant sections of the Act, and some guidance points which the University has considered when applying the Act in this response, in the form of a Guidance Note attached to this letter.

Please note, however, that whilst the HESA student returns do include both a sexual orientation and gender identity field (which allows students to say whether their gender identity is the same as that originally assigned at birth), these have been optional until the current year's collection (i.e. for 2020/21). A field being optional means that institutions are not required to collect that data and, generally speaking, the University of Sussex has opted not to collect optional data, only starting to collect this information through registration more recently.

As such, the data available will not be complete or comprehensive over time – though you would be able to obtain information from the point when data starting appearing in the return, as well as information about what proportion of students the data has been provided by, and how that has changed over time. But it should be noted that this would not be considered to be a valid statistical representation of the status of the whole student body.

Additionally, you have mentioned information which may be held by student societies, but please note that these are run via the University of Sussex Students' Union (<https://sussexstudent.com/>), which is a separate entity to the University for the purposes of Freedom of Information. You may wish to contact them to see if they are able to provide you with any further data.

If you are not satisfied with this response you may request a review but this must be within 40 days of receiving this response. In the first instance please write to Alexandra Elliott, the Head of Information Management and Compliance, at the address below. Full details of our Freedom of Information internal review procedure are at: <http://www.sussex.ac.uk/oqs/policies/information/foi/procedure>.

If you need to contact us about your request please quote your reference number FOI-21-0072.

Yours sincerely,

Lucy Pattenden
Information Officer
Information Management and Compliance

EXPLANATION OF FOIA - SECTION 21 – INFORMATION ACCESSIBLE BY OTHER MEANS

You will find additional information about Section 21 of the Act provided below. Some extracts from the legislation, as well as some of the Information Commissioner's Office guidance used when applying it is included.

The legislation

Section 1: Right of Access to information held by public authorities

- (1) Any person making a request for information to a public authority is entitled—
 - (a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and
 - (b) if that is the case, to have that information communicated to him.

Section 21: Information accessible to applicant by other means

- (1) Information which is reasonably accessible to the applicant otherwise than under Section 1 is exempt information.
- (2) For the purposes of subsection (1)—
 - (a) information may be reasonably accessible to the applicant even though it is accessible only on payment, and
 - (b) information is to be taken to be reasonably accessible to the applicant if it is information which the public authority or any other person is obliged by or under any enactment to communicate (otherwise than by making the information available for inspection) to members of the public on request, whether free of charge or on payment.
- (3) For the purposes of subsection (1), information which is held by a public authority and does not fall within subsection (2)(b) is not to be regarded as reasonably accessible to the applicant merely because the information is available from the public authority itself on request, unless the information is made available in accordance with the authority's publication scheme and any payment required is specified in, or determined in accordance with, the scheme.

Guidance

Section 21 exempts information from the right of access under the Act if that information is reasonably accessible to the applicant by other means.

Section 21 is aimed at preserving intact all existing laws providing access to information. The Act is not designed to subsume other legal access rights, nor to give alternative routes of access where existing regimes are already available. Rather, the Act access rights build on, but do not replace, previous access rights. Those existing rights, and the separate procedural regimes which are tailored to them, continue in place, and the Act observes corresponding limits to its role.

Section 21 also confirms that the Act does not provide alternative means of access to information which is already freely available, either through commercial publishing operations or through existing publicly funded provision. The Act rights are designed to supplement, and not to duplicate, the usual flow of information to the public through the commercial electronic and print media, and through existing library and archive services.

Section 21 is an absolute exemption, which means that no consideration of the public interest test is required to withhold information.

EXPLANATION OF FOIA - SECTION 22 – INFORMATION FOR FUTURE PUBLICATION

You will find additional information about section 22 of the Freedom of Information Act 2000 provided below. Some extracts from the legislation, as well as some of the guidance used when applying it is included.

The legislation

Section 1: Right of Access to information held by public authorities

- (1) Any person making a request for information to a public authority is entitled—
- (a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and
 - (b) if that is the case, to have that information communicated to him.

Section 22: Information intended for future publication

- (1) Information is exempt information if—
- (a) the information is held by the public authority with a view to its publication, by the authority or any other person, at some future date (whether determined or not),
 - (b) the information was already held with a view to such publication at the time when the request for information was made, and
 - (c) it is reasonable in all the circumstances that the information should be withheld from disclosure until the date referred to in paragraph (a).
- (2) The duty to confirm or deny does not arise if, or to the extent that, compliance with Section 1(1)(a) would involve the disclosure of any information (whether or not already recorded) which falls within subsection (1).

You can also find more information by reading the full text of the Act, available at <http://www.legislation.gov.uk/ukpga/2000/36/section/22>

Guidance

Section 22 exempts information requested by an applicant if it is intended for future publication. It encourages public authorities to place information in the public domain proactively.

The Freedom of Information Act recognises the desirability of information being freely available in its own right, but section 22 also acknowledges that public authorities must have freedom to be able to determine their own publication timetables. This allows them to deal with the necessary preparation, administration and context of publication. Where information is intended to be made available, individual requests for information should not determine the publication timetables of public authorities. This protection is afforded whether it is the public authority itself or another person which intends to publish – whether an individual, a company or another public authority.

The starting point for section 22 is that it exempts information which is held by a public authority with a view to its publication, by the authority or any other person, at some future date. The exact date, however, does not necessarily have to be decided already. When using the section 22 exemption, the University will consider whether it is possible and appropriate to disclose the expected publication date.

Section 22 is subject to two important qualifications:

- it must be reasonable in all the circumstances to withhold the information until the date of publication
- the public interest test must be satisfied

These qualifications recognise that sometimes there will be an overriding public interest in the information being released prior to the intended publication date, and the University will always consider these qualifications when considering whether Section 22 applies to requested information.