

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 24 October 2018

Public Authority: Queen Mary University of London
Address: Mile End Road
London
E1 4NS

Decision (including any steps ordered)

1. The complainant has requested information relating to the initial assessment of applications to the University's school of medicine. The University refused the request citing the exemption provided by section 43(2) – prejudice to commercial interests, as its basis for doing so.
2. The Commissioner's decision is that the University has not demonstrated that disclosing the information would be likely to prejudice its commercial interests.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
 - To disclose the withheld information as identified in its submission to the Commissioner of 12 July 2018.
4. The public authority must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Act and may be dealt with as a contempt of court.

Request and response

5. On 21 December 2017 the complainant wrote to the business area of QMUL responsible for admissions regarding his application to medicine school and asked four questions regarding how his own application had been scored. The majority of those questions were effectively requests

for his own personal data and therefore do not fall within the scope of his complaint under the FOIA. However the third question related to the admissions process more generally. On 3 January 2018 he resubmitted this request through an email address dedicated to enquiries under the FOIA. He also extended its scope. Therefore, as at 3 January 2018, his request for information, other than his own personal data, was as follows:

"I was not aware that the personal statement and academic reference were also assessed at this stage but would like to know what the scores were for these elements too and how they were factored into the overall calculation.

3. What was the maximum possible score for each element assessed and how was each element weighed?

... please also disclose the points system for allocating points for prior academic performance."

6. The Commissioner notes in passing that under the FOIA a request does not need to be made to a specific, dedicated, business area within a public authority. So long as it is made in writing, describes the information sought and contains an address for correspondence, it can be submitted through any part of a public authority and it is the responsibility of the public authority to recognise it as a valid request and deal with it appropriately. Obviously, where one exists, it makes sense for applicants to use a dedicated email address as this should help expedite the handling of that request.
7. On 23 January 2018 QMUL responded. It provided a brief explanation of the scoring process, but explained that the precise formula used in assessing applications was exempt under section 43 – commercial interests.
8. The complainant requested an internal review on 24 January 2018. QMUL sent him the outcome of the internal review on or around 23 March 2018. The review upheld QMUL's original position.

Scope of the case

9. The complainant initially contacted the Commissioner on 29 January 2018 after his request had originally been refused, but it was only after the University had been given an opportunity to complete its internal review that the Commissioner accepted the complaint on 19 March 2018. Shortly after that date the University did complete its review.

10. In broad terms, when a candidate applies to a school of medicine as a graduate, a number of elements are taken into account when deciding whether to offer a candidate a place on its course. This includes their existing academic qualifications, their score in an external exam to test an individual's clinical aptitude, known as the UKCAT exam, as well as a personal statement and an academic reference. The Commissioner also understands that there are a number of stages to the admissions process. In this case the complainant is concerned with the initial stage. During the course of the investigation the Commissioner was advised by the University that the personal statement and academic reference were not in fact assessed as part of the initial stage. The University also said the complainant had already been informed of this.
11. The Commissioner is satisfied that within the context of the complainant's correspondence, his request relates to how applications are scored at the initial stage and having discussed this with the complainant he agreed that the focus of his complaint should be the maximum possible scores available for those elements that were scored at the initial stage and how these elements were weighed when considering whether a candidate should progress further, presumably, being invited to an interview.
12. Therefore the matter to be decided in this case is whether disclosing information on the method of scoring, or assessing, those elements which are taken into account at the initial stage would prejudice someone's commercial interests. In this case the University is concerned that its own commercial interests would be prejudiced. For clarity the elements of the application that are assessed at the initial stage include, in broad terms, the candidates' existing academic qualifications and their UKCAT score.
13. When making his complaint to the Commissioner the complainant challenged whether there would in fact be any prejudice to the University's commercial interests and even if they were, he argued there was a strong public interest in disclosing information that would increase the transparency of the admissions policy and help potential candidates decide which schools of medicine to apply to. This is important as candidates are limited to choosing only four schools of medicine to apply to.
14. The Commissioner notes that in the final two sentences of its submission to her, the University said that disclosing the requested information "could potentially be considered strategically useful and its disclosure amount to an infringement of the Competition Act 1998." It suggested that if this was so, the withheld information would be exempt under section 44(1)(a), which provides an exemption where disclosing the requested information is prohibited by an enactment. However QMUL does not appear to have gone so far as to actually apply the exemption.

The Commissioner has therefore not considered its application within the scope of her investigation. In any event the University has not provided any grounds for thinking disclosing the information would breach the Competition Act 1998.

Reasons for decision

15. Section 43(2) of FOIA states that information is exempt if its disclosure would prejudice the commercial interests of any person, including the public authority holding it.
16. The exemption can be engaged on the basis that the alleged prejudice either 'would' occur, or that the prejudice would only be 'likely' to occur. In this case the University is applying the lower threshold, i.e. that the prejudice is only likely to occur. Although this makes it easier to establish the exemption is engaged, the exemption is subject to the public interest and, if the Commissioner finds that the exemption is engaged the fact that the prejudice is less likely to occur reduces the public interest in maintaining the exemption when considering that test.
17. The University is arguing that disclosing the requested information would allow other Universities, which compete against it for the best medical students, to understand and potentially adopt its method of selecting which candidates to admit. The first thing that needs to be considered is whether this relates to the commercial interests of the University. The Commissioner is satisfied that provision of university courses in exchange for a tuition fee is a commercial activity.
18. The complainant has argued that there are always far more candidates applying than there are places on the courses at the medical school. When seeking an internal review he referred to 1,300 candidates applying for 40 places. He therefore argues that it would be unrealistic for the University to argue that disclosing the requested information would lead to a reduction in revenue from tuition fees.
19. The University's position is that it believes the method it has developed for selecting candidates allows it to identify the best students and that they are the ones most likely to complete the course and so pay all the fees and provide other income during their studies. The University further argues that the research produced by students during their course, or once they have graduated, enhances its reputation and this in turn attracts high quality candidates in the future. The research also attracts additional income in the form of research grants.
20. The Commissioner accepts the rationale of the University's argument and considers that if disclosing the requested would undermine its ability, in any meaningful way, to select the best of the candidates from

those who apply to it, this would have a negative impact on the University's commercial interests. The question is whether disclosing the information would have any serious impact on its ability to select the best students. Although the University is only claiming the prejudice is 'likely' to occur as opposed to asserting it 'would' occur, there still has to be a real and significant risk of the prejudice occurring.

21. For obvious reasons the Commissioner is unable to describe the method used by the University at the initial stage of its applications procedure in detail. However some information on the admission process is already in the public domain, or at least has already been disclosed to the complainant. It is known that the initial assessment is based on a candidate's score in the UKCT aptitude test and a score for their academic achievement, i.e. their degree and any masters or a PhD qualification. The weighting given to these two elements i.e. the UKCAT score and academic achievements is 50:50 (or at least was in the year of the complainant's application).
22. Having viewed the withheld information the Commissioner does not consider the approach adopted by the University is a particularly sophisticated one, despite the University explaining that it has been developed and 'tweaked' over the years. The UKCAT examination is conducted independently of the University and forms one element of the admissions policy for a number of schools of medicine. According to the complainant, candidates who sit the UKCAT exam are given their score as they leave the test centre and know the total score it is marked out off.
23. What the complainant does not know is how the other elements considered at the initial stage are scored. However the University has drawn the Commissioner's attention to other information on the initial stage of the admission's policy which has been released in response to other information requests made via the What Do They Know (WDTK) website. One which post-dates the complainant's request does contain additional information relevant to the initial stage of the admissions process. Although the WDTK request refers to admissions to the course offered by the University open to those without a degree, the actual information requested does appear relevant to the course which the complainant applied for. Its relevance is confirmed by the fact that the University specifically referred the Commissioner to this request.
24. In light of this the Commissioner considers that much of the requested information is now in the public domain, or available to the complainant. However at the time of the complainant's request the response to the WDTK request was not in the public domain and therefore the Commissioner is obliged disregard this later disclosure when considering whether the exemption was engaged at the time his request was made.

25. When considering whether this information was exempt at the time of the complainant's request the Commissioner has taken account of the factors discussed below.
26. Places at schools of medicine are in very great demand and therefore the selection process is demanding. As a consequence the Commissioner anticipates that other schools of medicine will have developed their own processes for sifting candidates through initial stages, to interviews and then to offers being made. Whilst recognising each school of medicine's approach may differ to some extent, she considers it most likely that they would not be radically different from one another. Therefore it is not clear to the Commissioner that rival schools of medicine would necessarily substitute their own tried and tested systems for that used by the University if it was disclosed in response to this information request.
27. The Commissioner recognises that the University's school of medicine is highly regarded and various league tables show it to be one of the country's top ten medical schools to study at. Therefore it could be argued that other medical schools would have an incentive to copy the University's admissions policy. However even taking account of this point the Commissioner is not persuaded that other, less prestigious, schools of medicine would automatically adopt the University's procedures.
28. It should also be remembered that the information being requested forms just one stage of the selection process, the initial sift, which aims identify and remove the less able candidates from the process. The Commissioner expects that later stages of the selection process would involve more detailed scrutiny of each candidates' potential. She considers it likely that these later stages are more critical in identifying the higher calibre candidates i.e. those most likely to complete the course and enhance the reputation of the University. Therefore although the initial stage is not an unimportant one, the Commissioner considers the processes, and judgements made, at the later stages have a far greater impact on the University's commercial interests.
29. Finally the Commissioner notes that the University's concerns relate to the impact its admissions policy ultimately has on its reputation and its ability to attract high calibre candidates. Although the Commissioner has accepted the rigour of its admission's policy has a part to play in upholding the University's prestige, it is only one of the elements which contributes to that reputation. Sight should not be lost of the importance of the quality of its teaching and no doubt the contribution of many other factors. These would not be reduced by disclosing the requested information.

30. In light of the above, the Commissioner is not satisfied that disclosing the requested information would necessarily lead to other schools of medicine adopting the exact same approach to the initial stage of their admissions procedure as is currently followed by the University and even if some did borrow from the University's approach, the Commissioner is not convinced this would undermine its ability to recruit high calibre students in any meaningful way. The Commissioner finds that disclosing the requested information would not prejudice the University's commercial interests and that therefore the exemption provided by section 43 is not engaged.

Right of appeal

31. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals,
PO Box 9300,
LEICESTER,
LE1 8DJ

Tel: 0300 1234504

Fax: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

32. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
33. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Signed

Rob Mechan
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