

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 23 December 2022

Public Authority: The Council of University College London
Address: Gower Street
London
WC1E 6BT

Decision (including any steps ordered)

1. The complainant requested copies of two internal reviews conducted by University College London (UCL). UCL refused to provide this information on the basis of section 36(2)(c).
2. The Commissioner's decision is that section 36(2)(c) is engaged and the public interest favours maintaining the exemption and withholding the information.

Request and response

3. The complainant had made an earlier FOIA request in which UCL had responded and stated that it had:

"conducted an Special Inquiry into Regenerative Medicine at UCL and the Inquiry report was published in September 2017 which made a number of recommendations. The paper in question has been scrutinised by the Inquiry as well as two internal reviews at UCL..."
4. On 6 November 2021 the complainant made a request to UCL for the following information:

"Professor Pillay refers to "two internal reviews at UCL". I would be grateful if you will send me copies of the reports of each of these internal reviews."

5. UCL responded on 14 January 2022 confirming it held information relevant to the request but considered it exempt under section 36(2)(c) of FOIA, a position it upheld following an internal review.

Reasons for decision

6. Section 36 of FOIA states that information is exempt where, in the reasonable opinion of a Qualified Person (QP), disclosure would, or would be likely to, prejudice the effective conduct of public affairs.
7. UCL has applied section 36(2)(c) to refuse to provide the internal reviews.
8. Section 36(2)(c) of FOIA states:

“(2) Information to which this section applies is exempt information if, in the reasonable opinion of a qualified person, disclosure of the information under this Act—

(c) would otherwise prejudice, or would be likely otherwise to prejudice, the effective conduct of public affairs”
9. The exemptions at section 36 can only be engaged on the basis of the reasonable opinion of a QP. The Commissioner is satisfied that the Provost of the University was authorised as a QP under section 36(5) of FOIA at the relevant time and that UCL did ask for and receive his opinion.
10. The Commissioner accepts it was reasonable for the QP to consider that there was need to protect the effective conduct of public affairs by protecting the effective conduct of internal reviews of this nature. It was his opinion that the internal reviews would impact the effectiveness and robustness of reviews by opening up the process to public scrutiny when a ‘safe space’ is needed to allow the process to remain effective.
11. The Commissioner is satisfied that the QP’s opinion, namely that inhibition relevant to subsection 36(2)(c) would be likely to occur through disclosure of the withheld information, is reasonable. He is therefore satisfied that the exemption was engaged correctly.
12. As section 36(2)(c) is a qualified exemption, and as the Commissioner is satisfied the exemption was applied correctly in this case, he has next considered the balance of the public interest test.

The public interest test

13. The Commissioner has already discussed the background to this request in another decision notice¹ that dealt with a related request for the names of the internal reviews. This decision notice also set out the public interest arguments presented by both parties which are the same arguments provided in this case so the Commissioner does not intend to repeat them here.
14. In the case relating to just the titles of the internal reviews the Commissioner concluded the balance of the public interest lay in maintaining the exemption and withholding the information. There was recognition that the subject matter was of public interest and disclosing the titles would assist in increasing transparency. However, the Commissioner found that the titles on their own would reveal who had been involved in the complainants process and there was a need to allow for individuals to come forward with complaints and misconduct allegations to allow for the process of investigating issues to be conducted effectively and without undue external scrutiny.
15. In this case the request is for the full reviews and the Commissioner does not consider the arguments for withholding the reviews in full are any less compelling than just for the titles of the reviews. If anything there is a stronger case for withholding the reviews in full (including the titles) as not only would this potentially cause a 'chilling effect' in terms of individuals coming forwards with allegations but also arguably would have more of an impact on the 'safe space' needed by UCL to investigate allegations.
16. The arguments for disclosure in this case, as with the request and decision notice, are not, in the Commissioner's view sufficient to override the public interest in maintaining the effective conduct of the complaints process in this case.
17. The Commissioner therefore finds that 36(2)(c) FOIA has been properly applied in this case.

¹ IC-162234-P5Q6

Right of appeal

18. 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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

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

19. 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.
20. 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

Jill Hulley
Senior Case Officer
Information Commissioner's Office
Wycliffe House
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Wilmslow
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SK9 5AF