

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 11 December 2023

**Public Authority:** The Governing Body of Staffordshire University

**Address:** College Road  
University Quarter  
Stoke-on-Trent ST4 2DE

#### **Decision (including any steps ordered)**

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1. The Commissioner's decision is that, to the extent that it holds the requested information, Staffordshire University ('the University') isn't entitled to withhold information about spending on student housing that it owns and operates under section 43(2) of FOIA. This is because disclosing the information wouldn't be likely to prejudice its commercial interests or those of its students.
2. The University must take the following step to ensure compliance with the legislation:
  - Disclose information the University holds that falls within scope of Q1 of the complainant's request.
3. The University must take this step 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**

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4. The complainant made the following information request to the University on 22 June 2023:

1. Revenues and spending on university owned/operated student housing for the academic year 2022/23 and 2021/2022
  2. Average price of rent per week and per year for students in 2022/23, and also cheapest and most expensive prices per week
  3. Average price of rent per week and per year for students in 2023/24, and also cheapest and most expensive prices per week
  4. Number of places for students in halls this coming year
  5. How much has rent increased this year?
  6. How much has rent increased by over the last ten years?
  7. How many applications for accommodation were received for the coming year, and of those, how many were accepted or rejected?
5. In a response to the request on 29 June 2023 the University addressed six of the complainant's questions and applied section 43(2) of FOIA to Q1.
  6. The University's final position following its internal review is that the information requested in Q1 is exempt from disclosure under section 43(2) of FOIA.

### **Reasons for decision**

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7. On the basis of the complaint to the Commissioner, this reasoning covers the University's application of section 43(2) of FOIA to Q1 of the request. He'll consider the matter of the University's handling of the internal review under 'Other matters.'

### **Section 43 – commercial interests**

8. Section 43(2) of FOIA states that information is exempt if its disclosure would, or would be likely to, prejudice the commercial interests of any person, including the public authority holding it.
9. The Commissioner has reviewed the correspondence between the complainant and the University and the complaint to him. But he's also

taken account of his decision in a separate, but related case IC-251077-B1C3<sup>1</sup>.

10. In its internal review of 16 October 2023, the University advised that the market for student accommodation is highly competitive, particularly at a time when demand considerably outstrips supply. The availability, quality and cost of university accommodation can be a significant factor in attracting and retaining students. The University keeps these matters under constant scrutiny as it makes its plans for the future of its offering.
11. The University said that, in making these plans, has to balance the extent and type of its own accommodation provision with the provision from private providers of accommodation aimed specifically at this market. This includes bespoke developments and the general local rental market. The University said it has to compete with the accommodation offerings of other educational institutions as well as with alternative accommodation providers in the private sector who aren't subject to FOIA.
12. The University advised the complainant that it considered that it would be likely to be commercially prejudicial for it to make the requested information public (to the extent that it's held) since this would result in valuable market intelligence being available to the University's competitors. This would be likely to negatively affect its own ability to compete in a commercial environment.
13. Finally, the University advised that with the exception of the direct cost of staff allocated to the accommodation service, the information isn't held by the University. This is because much of its expenditure (including in particular the cost of maintenance, security, insurance, IT infrastructure, capital expenditure and depreciation, student support services and non-direct staffing) forms part of the central overheads relating to the management of the whole University estate.
14. The information requested in Q1 is the revenue and spending figure for University owned and operated student housing for two academic years. The University's correspondence indicates that it holds some discrete information that's relevant to Q1.

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<sup>1</sup> <https://ico.org.uk/media/action-weve-taken/decision-notice/2023/4026879/ic-251077-b1c3.pdf>

15. The Commissioner made a decision on the information requested in Q1 in relation to the University of Warwick – the decision in IC-251077-B1C3. He found that the information didn't engage section 43(2) and instructed the University of Warwick to disclose it.
16. For the same reasons, such that he doesn't intend to reproduce his reasoning here, the Commissioner finds that Q1 doesn't engage section 43(2) in this case. Since section 43(2) isn't engaged, it's not necessary to consider the associated public interest test.

### **Other matters**

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17. Providing an internal review isn't a requirement of FOIA but is matter of good practice. The Commissioner advises that an internal review should be provided within 20 working days of a request for one and, in the most complex cases only, within a maximum of 40 working days.
18. In an initial response to the request on 27 July 2023 the University appeared to apply section 43(2) to the entire request.
19. The complainant requested an internal review on the same day. The complainant didn't receive a review and submitted a complaint to the Commissioner on 23 September 2023. The Commissioner accepted the complaint without a review having been carried out.
20. The University then provided the complainant with the response of 29 September 2023 and subsequently provided the formal internal review on 16 October 2023.
21. The Commissioner finds that there was an unnecessary delay in providing a review response on this occasion and he's recorded this for monitoring purposes.

## **Right of appeal**

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22. 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](mailto:grc@justice.gov.uk)  
Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

23. 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.
24. 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**

**Cressida Woodall**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**