



University of East Anglia

Information Services Directorate

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25 February 2016

Dear

Freedom of Information Act 2000 – Information request (ref: FOI_16-027)

We have now considered your request of 28 January 2016 as clarified on 28 January and 10 February 2016 for:

“All correspondence, including letters and emails, sent by any student society to the university's equality and diversity team (or equivalent) and any correspondence back (from Jan 2015 to Jan 2016 inclusive)” and for

“...any correspondence from student societies that has been passed to the equality and diversity team from other university departments/offices/officials over the same period.”

Our response is within the accompanying documents entitled ‘Appendix A_Data file_FOI_16-027_Part A.pdf’ and ‘Appendix A_Data file_FOI_16-027_Part B.pdf’. We are sending the material in two (2) separate files because the volume of the material and the consequent size of the data file was such that our email system could not send it as one file. We hope this will meet your requirements.

As per your clarification of 10 February, we have excluded all personal data from the scope of this request and all such information that has been redacted are indicated by solid black blocks. Please note that where an email indicates that there is an attachment, we have placed that attachment immediately following the relevant email.

It is, however, not possible to satisfy all elements of your request, and in accordance with section 17 of the Freedom of Information Act 2000 this letter acts as a partial Refusal Notice, and we are not obliged to supply all of the requested information. The exemptions are clearly indicated within the attached document and the reasons for exemption are as stated below:

Exemption	Reason
s.43(2), Commercial interests	Disclosure of information will be likely to prejudice the commercial interests of a person as defined by the Act

Section 43(2) exemption explanation

In regards the application of section 43(2), it is our belief, supported by direct evidence provided by EBSCO, that the release of some information regarding the pricing of certain EBSCO products would or would be likely to, prejudice the commercial interests of a party; in this case EBSCO themselves.

The Information Commissioner's Office has established a multi-criteria test for assessing whether a section 43(2) exemption applies¹ and we address each criterion in turn.

The first criterion is whether the information relates to, or could impact on a commercial activity. We would maintain that the sale and purchase of teaching and learning content to higher education institutions is undoubtedly a commercial activity.

The second criterion is whether the commercial activity is conducted in a competitive environment. The University must obtain the best deals for its library, academic and teaching resources, and there are a large number of companies seeking to provide those products who are required to compete against one another to win business in the higher education sector. Additionally, competitors offer similar products in similar subject areas in this market.

The next criterion is whether the information is commercially sensitive. The pricing information requested would be likely to, reveal information considered commercially sensitive to EBSCO. Pricing information, and particularly any discounting on offer, is an area in which firms in this market compete and the discount amount in both real and percentage terms would very much be information that EBSCO would not release publicly or to any of its competitors.

The next criterion is whether there will be damage to the commercial interests of EBSCO. Flowing directly from the commercial sensitivity of the requested information is the fact that use of such information by competitors would put EBSCO at a distinct disadvantage in the process of securing sales for such products within the higher education sector. We have consulted with EBSCO and have been directly informed by them that they feel that release of the revenue information would give a significant advantage to its competitors and damage EBSCO's ability to compete effectively in the sale of such products across the UK HE sector.

Under FOI, release to one requester can be considered as release to the world. It is our position that release of this information would, in effect, provide competitors of EBSCO with information that would be prejudicial to the commercial interests of EBSCO.

The final criterion is the likelihood of such prejudice occurring. Given that the services provided by EBSCO are subject to vigorous competition across the sector, and the commercial sensitivity of the information, we are confident that there is a strong possibility that this information would be used, and that the prejudice would occur.

Public Interest Test

A public interest test^[2] must be applied to the exemption for prejudice to commercial interests. There is no doubt that there is a legitimate public interest in knowing the amount and way in which public funds are spent in this respect, both to further the transparency and accountability of public authority activities.

However, there is also a clear public interest in ensuring there is fair competition for public sector contracts and in maximizing the return of any investment to the public sector. Any distortion of the process of securing such services to the disadvantage of one firm has the potential effect, in this case, of distorting the process by which such

¹http://www.ico.gov.uk/for_organisations/guidance_index/~/_media/documents/library/Freedom_of_Information/Detailed_specialist_guides/AWARENESS_GUIDANCE_5_V3_07_03_08.ashx

services are offered to the public sector which would not be in the public interest. On balance, we believe the public interest lies in maintaining and securing in the current process for these types of contracts.

Any redactions under s.43(2) within the attached document are indicated by solid blue solid colour blocks.

Please note that any material over which UEA has copyright is released on the understanding that you will comply with all relevant copyright rules regarding reproduction and/or transmission of the information provided.

You have the right of appeal against this response. If you wish to appeal, please set out in writing your reasons for appealing and send to the above address. You must appeal within 60 calendar days of the date of this letter. Any appeal received after that date will not be considered nor acknowledged. This policy has been reviewed and approved by the Information Commissioner's Office.

You also have a subsequent right of appeal to the Information Commissioner's Office. Further information is available on their website:

https://ico.org.uk/Global/contact_us, or by telephone on 0303 123 1113.

Please quote our reference given at the head of this letter in all correspondence.

Yours sincerely

Dave Palmer
Information Policy and Compliance Manager
University of East Anglia