



University of East Anglia

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14 February 2017

Dear

Freedom of Information Act 2000 – Information request (ref: FOI_17-012)

We have now considered your request of 16 January 2017 as clarified on 17 January for the following information:

“...documentation that is in regards to the decision making process and finally the decision made to why the university closed the London campus.”

[Clarified on 17 January 2017 to exclude emails and include only policy and guidance documents]

Our response is on page 5 of this letter, together with a copy of your request.

On this occasion, it is not possible to provide all the requested information. The Act contains a number of exemptions that allow public authorities to withhold certain information from release. We have applied the following exemption to part of your request.

| Exemption | Reason |
|----------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------|
| s.36(2)(b)(ii), Prejudice to the effective conduct of public affairs | Release of this information would be likely to inhibit the free and frank provision of advice and exchange of views for the purposes of deliberation |
| s.43(2), Prejudice to commercial interests | Disclosure of information would, or would be likely, to prejudice the commercial interests of a person as defined by the Act |

Section 36(2)(b)(ii) exemption

In the reasonable opinion of the Vice-Chancellor (the University’s ‘qualified person’ under the Act), public disclosure of some of the requested information would be likely to inhibit the University’s ability to freely and fully exchange views in the type of deliberation necessary to fulfil its purpose as a higher education institution. This information comprises reports and minutes of discussions with the [Council](#)¹ of UEA discussing the closure of the UEA London campus. It is our opinion that disclosure of this information would negatively impact on one of the core functions of the

¹ <https://portal.uea.ac.uk/committee-office/uea-committees-and-boards/council>

University. This function is ensuring that the most senior decision making body within UEA, the Council, is able to be the forum within which matters of essential importance to UEA, such as the closure of a branch campus, can be discussed freely and openly.

A disclosure of information under FOIA is effectively a public statement. It is to be expected that people may moderate or qualify statements they anticipate will be made public. Where a safe space for discussion exists, people would be expected to be more open and less guarded.

However, there is a requirement for robust and candid discussions within Council to ensure that proper decisions are made. Council, as the senior decision making body of UEA, decides only on matters of importance to the University and therefore the need for a correct and reasoned decision is only accentuated. We would argue that the robust and candid discussion necessary to arrive at such decisions requires a 'safe space' for discussion in which views can be aired candidly.

Whilst UEA openly publishes edited versions of Council meeting reports and minutes in furthering transparency of our decisions, it has always treated certain matters as confidential within Council and restricted these reports and minutes from public exposure. In this particular instance, some of the information relevant to this request was, and is classed as 'secret'.

The reason for the need of such confidentiality and to preserve Council as a forum for candid discussion is that the requested information relates to highly sensitive discussions regarding our partnership with INTO University Partnerships (IUP), our co-founder of UEA London. We have an ongoing commercial partnership with IUP so even though the matter of the London partnership was decided in 2013-15, the sensitivity of information and discussions relating to IUP remains.

To release such discussions would be likely to inhibit further discussion within Council of such sensitive matters and greatly lessen its ability to make considered decisions of importance to UEA.

The application of this exemption requires an examination of the public interest in disclosure as opposed to that in non-disclosure. We acknowledge there is a public interest in UEA's involvement in the UEA London initiative and how and why the University either expands or contracts its operations, and that the release of the requested information may provide a 'window' into this area. By providing the requested information we may enable the public to see how the closure of UEA London was discussed and resolved.

It is clear that the actions and decisions of the University will benefit from deliberations which are candid, impartial and robust, and it follows that the University should protect Council deliberations from the 'chilling effect' of public disclosure wherever appropriate.

As noted above, Council is required to take decisions of great import to UEA and to lessen its ability to take such decisions effectively is not in the public interest. Indeed, the ability to discuss matters with candour will lead to better decisions and better management of public resources.

We would also point out that we released information relating to this matter at the time of the closure which explained our reasons for this decision and this decision has also been included within an assessment of UEA by the Quality Assurance Agency (QAA), so that there is information within the public domain regarding the reasons for the closure of UEA London. This information is being released to you.

Therefore, we believe the balance of public interest lies in withholding the requested information.

Section 43(2) exemption

As an exempt charity under the Charities Act 2011, the University has a duty to make effective use of its financial resources.

To compete in the Higher Education market, with leading UK and international universities, the University must ensure that information that would be strategically useful to its competitors is not placed in the public domain. Release of reports and minutes of discussions with the Council discussing the closure of the UEA London campus would potentially compromise the University's ability to enter into future collaborative undertakings with commercial partners.

The Information Commissioner's Office has established a multi-criteria test for assessing whether a section 43(2) exemption applies² 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 expansion of the provision of UEA's services into new geographic areas and markets is undoubtedly a commercial activity.

The second criterion is whether the commercial activity is conducted in a competitive environment. The higher education sector in the UK is a highly competitive environment in regards securing both the number and quality of students desired. The number of higher education institutions that have established 'satellite' campuses both within the UK and around the globe stands testament to how extensive and deep this competition is.

The next criterion is whether the information is commercially sensitive. The information in question are within various documents and reports which went to UEA Council as secret documents (the highest level of confidentiality at UEA) for a discussion informing the debate regarding the closure of UEA London.

The information relates to issues in our partnership with IUP and includes a confidentiality clause about the terms and nature of the dissolution of the UEA London Joint Venture. It is clear in our view that both UEA and IUP regarded, and continue to regard this information as commercially sensitive.

The next criterion is whether there will be damage to the commercial interests of UEA. The release of information detailing issues within our partnership with IUP would likely to be commercially damaging to UEA by hampering its search for new commercial partnerships to fund and administer new initiatives. It is our opinion that this information, if released, would discourage other external bodies from seeking or entering into partnerships with UEA.

We should also note that to release information in contravention of this clause would be likely to cause legitimate doubt to enter the minds of potential future partners regarding our ability or willingness to abide by contractual terms.

We have looked at the documents in the light of the passage of time since the exit agreement was signed but UEA and IUP believe that the confidentiality concerns still exist, given UEA and IUP's continued commercial relationship (INTO University of East Anglia LLP) which could still be damaged.

The final criterion is the likelihood of such prejudice occurring. Consultations with IUP indicate that they would not look favourably upon the release of this information and we are of the belief that this position would be shared with any prospective commercial partner. We therefore are of the opinion that there is a significant likelihood of the prejudice occurring.

The application of this exemption requires an examination of the public interest in disclosure as opposed to that in non-disclosure. There is no doubt that there is a

²https://ico.org.uk/media/for-organisations/documents/1178/awareness_guidance_5_v3_07_03_08.pdf

legitimate public interest in knowing the amount and way in which public time and effort are spent in this respect, both to further the transparency and accountability of public authority activities.

We would counter that there is also a public interest in protecting the ability of institutions to compete on a level playing field. To disclose the requested information would prejudice this institution's competitive and commercial position, and it is difficult to see how this could be in the public interest. In addition, as noted above, there is already information in the public domain regarding the closure of UEA London. We do not feel that the increase in information about this decision resulting from the release of the exempted information would justify the harm done to UEA's interests and that of the public interest in a strong higher education sector generally.

On balance, we therefore believe the public interest lies in withholding the requested information.

We hope this information will meet your requirements, however if you are not satisfied you have the right of appeal. 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 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.

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

Response to Freedom of Information Act 2000 request (FOI_17-012)

I would like to know if you hold any documentation that is in regards to the decision making process and finally the decision made to why the university closed the London campus.

[Clarified on 17 January 2017 to exclude emails and include only policy and guidance documents]

Information on how the decision to close the UEA London campus was arrived at from a procedural perspective is contained within the regulations and policies governing the main decision-making bodies at UEA, the Council and the Senate.

This information in relation to the Council is gathered within a document known within the University as [the 'Orange Book'](#)³ which is available to view on our website.

Information regarding the role of the Senate is also available on our website here: <https://portal.uea.ac.uk/committee-office/uea-committees-and-boards/senate>.

[Information exempted pursuant to s.36(2)(b)(ii) & s.43(2), Freedom of Information Act]

Some information providing detailed discussion and reasons why the decision to close UEA London is exempted for the reasons noted in the above letter.

The published rationale for this decision is available as an [archived press release](#)⁴ on our web pages here. This decision was also noted in the most recent [Quality Assurance Agency report on UEA](#)⁵ published in October 2014 (see page 4).

³ <https://portal.uea.ac.uk/documents/6207125/7444692/orangebook201415.pdf/>

⁴ <http://tinyurl.com/h5k7euq>

⁵ <http://www.qaa.ac.uk/reviews-and-reports/provider?UKPRN=10007789#.WKHPG8tviUm>