

[REDACTED]

13 February 2014

Dear [REDACTED]

Freedom of Information Act 2000 – information request (Our ref: FOI_14-021)

We have now considered your request of 27 January 2014 for information contained in two specific emails dated 17 July 2012.

A partially redacted version of these emails had previously been supplied to you in the University's response to your 2012 Subject Access Request, made under the Data Protection Act 1998 (DPA). At that point you received all personal data relating to you contained in the entire email conversation.

The remaining redacted portion of the two emails (i.e. the subject of your request) includes the personal data of other individuals. As this text did not contain your personal data we have considered your request for this text under the terms of the Freedom of Information Act (FOIA).

We regret that on this occasion it is not possible to provide the requested information.

In line with section 17 of FOIA, this letter acts as a Refusal Notice. FOIA contains a number of exemptions that allow public authorities to withhold certain information from release. We have applied the following exemption to your request.

Exemption	Reason
s.40(2), Personal information	Disclosure of information would contravene one of the data protection principles

Why this exemption has been applied:

When a request is made under FOIA for information that includes personal data we are required to consider whether disclosing those data would breach the data protection principles contained within the DPA.

In considering a disclosure under FOIA, the University must also take into account that any information released under the Act will be placed in the public domain, through our own disclosure log or by other means.

We believe that disclosure of the requested information would breach the first data protection principle under the DPA; namely that information must be fairly and lawfully processed, and that the processing also meets one of the conditions set out in Schedule 2 of that Act (and in the case of sensitive personal data, a condition in Schedule 3).

We have followed the Information Commissioner's guidance¹ in assessing whether it is fair to disclose this information under FOIA. This involves considering the nature of the information, the expectations of and potential harm (of disclosure) to the data subjects, and how any legitimate public interest in this information is balanced against the rights and freedoms of the data subjects.

We note that none of the requested information – which includes sensitive personal data – is publicly available. As the information is contained within a private email conversation it can be assumed the data subjects would not have had a reasonable expectation that this information would be made public, either now or at the time the email was written. We do not think there is a legitimate interest in disclosing this information to the public, particularly as release of some of the information could cause damage or distress to the individual(s) concerned. We have therefore concluded that disclosure of this information would not be fair.

The Information Commissioner's guidance (see footnote 1) notes that if a public authority has determined disclosure would not be fair then it must not release the information under FOIA. In such circumstances there is no need to consider the conditions in Schedule 2 or 3 of DPA. However we can confirm that we do not have consent of the data subjects for the release of this information, and do not consider disclosure of the data to be necessary under any of the other conditions of Schedule 2 or 3 of the DPA.

You have the right of appeal against this decision. If you wish to appeal, please set out in writing your grounds of appeal and send to me at the above address.

You must appeal our decision 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 at:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF
Telephone: 0303 123 1113
Website: <http://www.ico.org.uk/>

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

Yours sincerely

Ellen Paterson
Information Policy and Compliance Manager
University of East Anglia

¹http://ico.org.uk/for_organisations/guidance_index/~media/documents/library/Freedom_of_Information/Detailed_specialist_guides/personal-information-section-40-and-regulation-13-foia-and-eir-guidance.pdf