



**Appeal Number: EA/2021/0227**

**First-Tier Tribunal (General Regulatory Chamber)**

**Information Rights**

**Date and type of Hearing:** Remote Hearing on CVP on  
19 January 2022 and 9 & 10 June 2022.

**Decision given on:** 16 June 2022.

**Before:** Brian Kennedy QC, Stephen Shaw, and Paul Taylor.

**Between:**

**Oxford Phoenix Innovation Ltd.**

**Appellant:**

**and**

**The Information Commissioner**

**First Respondent:**

**and**

**The Governing Body of the College of All Souls of the Faithful Departed Oxford**

**Second Respondent:**

**In an Application to approve a Consent Order:**

**Representation:**

**For the Appellant:** Orde Levinson as a Litigant in person.

**For the First Respondent:** Richard Bailey, solicitor for the information Commissioner.

**For the Second Respondent:** George Molyneaux of Counsel.

**Decision:** The Tribunal accept, endorse, and hereby approve a Consent Order as presented by the parties herein and annexed to this Decision.

## REASONS

### Introduction:

- [1] This decision relates to an appeal brought under section 57 of the Freedom of Information Act 2000 (“the FOIA”). The appeal is against the decision of the Information Commissioner (“the Commissioner”) contained in a Decision Notice (“DN”) dated 17 August 2021 (reference IC-73659-V2J7), which is a matter of public record.

### Factual Background to this Appeal:

- [2] Full details of the background to this appeal, the complainant’s request for information and the Commissioner’s decision are set out in the DN. The appeal concerns a request for information on the aim of the College of All Souls of the Faithful Departed (“the College”). In response, the Commissioner held that the CAS is entitled to refuse the request in accordance with section 21(1) of the FOIA.
- [3] The Commissioner maintains the position set out in her DN; namely that the College is entitled to refuse the request as the information within the scope of the complainant’s request is already reasonably accessible to the complainant on College’s website. The Commissioner did not require College to take any remedial steps. The Appellant now appeals against the DN. The Commissioner opposes the appeal and invites the Tribunal to uphold the DN.

### History and Chronology:

- [4] On the 10 October 2020 the Appellant wrote to the College and requested a description of the aim of the College in terms of their regulations and statutes.
- [5] The College responded on the 30 October 2020 and refused to comply with the request. The College categorised the request as vexatious under section 14(1) FOIA.

- [6] The Appellant requested an internal review on the 30 October 2020 and inquired how the College took the view that his request was an FOI request.
- [7] The College upheld its position after their review on the 12 November 2020.
- [8] The College later wrote to the Appellant and stated it was wrong to handle the request under the FOIA. The College directed the Appellant to their website where it stated that the information concerning the College was published.
- [9] The Commissioner reviewed the request and considered that it was conceivable that College held recorded information about its “aim” and advised the College as such.
- [10] Subsequently, the College issued a further response to the Appellant, relying on section 21 FOIA to refuse the request. The College provided the Appellant with the relevant links to their website.

**Legal Framework:**

**S1 FOIA General right of access to information held by public authorities:**

- (1) Any person making a request for information to a public authority is entitled —
- (a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and
  - (b) if that is the case, to have that information communicated to him.

**Section 2 FOIA provides:**

- (2) In respect of any information which is exempt information by virtue of any provision of Part II, section 1(1)(b) does not apply if or to the extent that—

(a) the information is exempt information by virtue of a provision conferring absolute exemption...

**S14 FOIA Vexatious or repeated requests.**

(1) Section 1(1) does not oblige a public authority to comply with a request for information if the request is vexatious.

(2) Where a public authority has previously complied with a request for information which was made by any person, it is not obliged to comply with a subsequent identical or substantially similar request from that person unless a reasonable interval has elapsed between compliance with the previous request and the making of the current request.

**S 21 FOIA Information accessible to the applicant by other means.**

(1) Information which is reasonably accessible to the applicant otherwise than under section 1 exempt information.

**Section 84 FOIA** provides that, for the purposes of FOIA, and subject to exceptions which are not material, "*information*" means "*information recorded in any form*".

**Commissioner's Decision Notice:**

[11] The Commissioner outlined both section 1(1) and section 21(1) of the FOIA for the purposes of explaining how the correspondence was categorised as a request under FOI.

[12] The Commissioner confirmed that she reviewed the website of the College. Further, the Commissioner determined that the information under the 'History of the College' link was particularly relevant to the Appellant's request.

[13] The Commissioner stated that on the 19 July 2021 she asked the Appellant to inform her of what information it was that he expected to receive upon making the request. The Appellant stated that he had received an error message when attempting to follow one of the links provided by the College. However, the Commissioner deemed the error message not to be a compelling argument, given that on several occasions, she had accessed the website in question without issue. The Appellant did not put forward further arguments as to why section 21 is not engaged.

**Grounds of Appeal:**

[14] The Appellant's grounds of appeal are as follows:

- I. Substantial failure to present the material facts as such that an appeal is required to correct them even if the merits are not altered;
- II. Substantial failure to present the material history such that an appeal is required to correct them even if the merits are not altered;
- III. Error of law in failing to deal properly or at all with complainants/objections to the section 21 notice and ignoring its grounds;
- IV. Error of findings of facts and law regarding the section 21 notice and failing to follow the Commissioner's own guidance on section 21;
- V. Error of findings on facts regarding the grounds of the public body in applying the section 21 notice; and
- VI. Material error of law in that the substantive FOI request which is dramatically in the public interest has not been answered properly or at all.
- VII. The Commissioner's failure to include that the Appellant requests, with pinpoint accuracy, the official aim of the College.

## **The Commissioner's Response:**

- [15] The Commissioner maintained her position adopted in the DN and reminds the Appellant that the onus is upon him to demonstrate that the Commissioner's decision notice involved an error of law.
- [16] The Commissioner relied on the Tribunal's findings in *Ames v Information Commissioner & the Cabinet Office* EA/2007/0110 ("Ames"), to dispute the assertion that the Commissioner erred in failing to conclude that the requested information was not 'reasonably accessible' to the Appellant.
- [17] The Commissioner highlighted that the Appellant does not dispute that he has internet access. Further, that any difficulty first experienced by the Appellant in accessing the links was a temporary one.
- [18] The Commissioner submitted that there are two relevant questions to address:  
*"i) Is the information as described by the applicant in their request the same (or of similar nature in the absence of any other recorded/published information) as the information accessible by means other than via section 1?*  
*ii) If the answer to the first question is yes, has the public authority complied with its duty to inform the applicant that they hold the information and then provide them with the directions enabling them to find the information which best matches the description specified in their request, with no difficulty or particular effort"*
- [19] The Commissioner referred to the advice provided by the College to the Appellant in its email dated 16 July 2021. The Commissioner explained both links and their content. Further, the Commissioner contended that the Appellant has clearly been able to easily access the link and referred to paragraph 28 of his email to the ICO dated November 2020.

- [20] The Commissioner asserted that the 'Patent of Foundation' dated 20 May 1438, appears to set out the aims of the College "*in terms of its regulations and statutes*". The Commissioner referenced the third link and argued that whilst the word "aim" may not have been used, the information clearly sets out the College's aims "*in terms of its regulations and statutes*". The Commissioner identified the Charter of Foundation dated the 20 May 1438 as the 'pin point' aim of the College. Therefore, the answer to question 1 is yes.
- [21] The Commissioner submitted that the information did not require a large amount of searching and whilst the College has a duty under section 16 FOIA, to assist, the Appellant was provided with a link to the correct area.
- [22] The Commissioner contended that the answer to the second question is also yes, as the public authority complied with its duty to inform the Appellant that they hold the information and then provide them with the directions enabling the Complainant to find the information which best matches the description specified in their request.

### **Appellant's Reply:**

- [23] The Appellant contended that a substantial amount of information and correspondence is missing in the DN; the Appellant stated that this information was obtained from the Commissioner under the FOI. The Appellant contended that the College are using section 14 FOIA as a blanket to hide under as opposed to indicating what their aims are. Further, that the Commissioner undermines public confidence by advising the College of what alternative exemption it should use. The Appellant argued that the appeal should be allowed on this point alone.
- [24] The Appellant invited the Tribunal to order the Commissioner to investigate her own conduct and to clarify why a party was advised of what the best exemption

was to use, to win. The Appellant referred to the correspondence between the Commissioner and the College, in which it is alleged that the Appellant should withdraw the appeal once section 21 is relied upon. The Appellant asserted that the conduct of the Commissioner is wholly unacceptable. The Appellant maintained that the College have avoided setting out its aims and should be investigated in respect of the same.

- [25] The Appellant highlighted that the Commissioner did not reference section 14 FOIA in her DN. The Appellant referred to section 58 FOIA, for the purposes of arguing that that the Tribunal has “*unfettered powers aside from its inherent powers of justice*”.
- [26] The Appellant relied upon the *Information Commissioner v Home Office* [2011] UKUT 17 (AAC) to challenge the College’s reliance on section 21 FOIA, as opposed to their earlier reliance on section 14 FOIA.
- [27] The Appellant disputed the Commissioner’s reference to *Ames* and stated that the information was not reasonably accessible. Further, that out of the references provided, none of them refer to the aims of the College. The Appellant asked the Tribunal to re-examine the request and describe the information requested with pin point accuracy.
- [28] The Appellant accepted that the Commissioner set out the aim of the College from the information on their website. However, the Appellant asserted that the aim is not clear, and that the Commissioner provided him with two different aims based on her understanding of the Colleges website. The Appellant contended that response of the Commissioner is insufficient and does not describe the requested information with pinpoint accuracy.



### **Hearing of Appeal on 19 January 2022:**

[29] At the hearing before this Tribunal on 19 January 2022, the Appellant made an application to adjourn the appeal to join the Public Authority as a Second Respondent. This Tribunal provided detailed reasons, granted the application and issued specific Case Management Directions on 20 January 2022.

### **Second Respondent's Response:**

[30] The College, now as Second Respondent submitted that the October 2020 request was not a request under FOIA, rather that it was a request for an opinion. Further, that the College was under no obligation to provide the Appellant with a description of its aim, whether in terms of its "regulations and statutes" or otherwise. The College argued that if the Tribunal were to conclude that the October 2020 request was for recorded information, by virtue of section 21 FOIA, the College was under no obligation to communicate the information to the Appellant. The main authority cited on section 21 FOIA was *Ames v Information Commissioner* (EA/2007/0110).

[31] The College stated that the information is readily accessible to the Appellant, via websites to which the College's letter of 16 July 2021 provided links. The reasonably accessible to the applicant test was satisfied regardless of the links provided by the College in this instance, according to the College as Second Respondent.

[32] At the First hearing, the Tribunal had identified, from the evidence bundle, an application form to the Charity Commission which appeared to set out the College's aims. On questioning by this Tribunal, the Appellant confirmed that this was what he wished to see in response to his request in submissions received prior to the adjourned Second Hearing. In relation to the Charity Commission form, the College confirmed that it held the registration form at the time of the October 2020 request but argued that it was under no obligation to

provide it to the Appellant. The College referred to *Independent Parliamentary Standards Authority v Information Commissioner* [2015] EWCA Civ, [2015] 1 WLR 2879 at §35-36 in support of this. The College submitted that the information found in the form falls outside the scope of the October 2020 request.

[33] In response to reliance on section 21 as opposed to section 14 FOIA, the College relied upon *Information Commissioner v Home Office* [2011] UKUT 17 (AAC) at §71 and *Birkett v Department for the Environment, Food and Rural Affairs* [2011] EWCA Civ 1606, [2012] PTSR 1299 at §26-29 to argue that it is settled law that a public authority is entitled to change the exemptions on which it relies, up to the point at which it files its appeal or response. Further, whilst the Appellant invited the Tribunal to chastise the College for its initial reliance on section 14 FOIA, the Second Respondent reminded the Appellant that this is an appeal against the DN which does not make a finding in relation to s14(1).

[34] The College dismissed the Appellant's allegation that the College had committed a s77 offence (i.e., the offence of altering etc. records with the intent to prevent disclosure). Furthermore, the investigation of such an allegation was a matter for the Commissioner. The College reminded the Appellant that these proceedings are an appeal against the DN and that there is nothing improper about the Commissioner's investigation. The College contended that the appeal should be dismissed.

#### **Appellant's Reply:**

[35] The Appellant refuted the College's argument that there was no request for information on the grounds that College's refusal was vexatious and without merit. The Appellant argued in relation to section 21 FOIA that the College has misinterpreted the case at hand, and further that *Ames v Information Commissioner* (EA/2007/0110) fails to consider the reasonably accessible test. The Appellant contended that the College was wholly unreasonable in their conduct. The Appellant stated that it is reasonable to search for the aims. The

Appellant referred to a document containing charitable objects and averred that this is the same as charitable aims. The Appellant maintained that he is not investigating the College.

[36] In response to the Charity Commission form, the Appellant stated that the College is required under the FOIA to state whether it holds the form in its response and disclose accordingly. The Appellant challenged the College's reliance on the authority of *Independent Parliamentary Standards Authority* and argued that the basis for the Charity Commission form is to ensure that the aims are adhered to.

[37] The Appellant disagreed generally with the assertions proffered by the College. The Appellant stated that the College has acted in bad faith and further that the Commissioner has not acted independently or in the interests of the public.

**Witness Statement from Dr. Rima Dapous:**

[38] Dr Rima Dapous (the College's Domestic Bursar) stated that the College has been registered as a charity since 15 September 2010. The College's charitable objects are recorded on the Charity Commission's website as follows **RD1/41:**

I. *"To pray for the souls of all the faithful departed and to promote the study of philosophy, arts, theology and civil and canon law".*

[39] This witness in her written statement reflects the two objects identified on the College's application to be registered as a charity, i.e. *"To promote the study of Philosophy and Arts, of Theology, and of the Civil and Canon Law"* and *"The offering of prayers for all the souls of the faithful departed"* **[E469-E473]**,

[40] Further, this witness avers that the College has provided a great deal of information to the Appellant in response to his various requests over the years and continues to receive communications from him. The College responds to such communications where it judges that to be necessary to comply with its

legal obligations or otherwise, as appropriate. By way of example, subsequent to the request of 10 October 2020 that is in issue in this appeal:

(a) On 7 March 2021, the Appellant requested a copy of the By-Laws [C189].<sup>2</sup> The College duly provided him with a copy on 24 March 2021 [C249-307],

(b) On 6 July 2021, the Appellant made a request for information about the handling of one of his previous FOIA requests. The College responded on 3 August 2021 [E560-563].

(c) On 4 January 2022, the Appellant made a request for information about whether the College had a particular College committee (and related matters), to which the College responded on 28 January 2022. The same day, the Appellant made a follow-up request, which is currently under consideration.

(d) On 30 January 2022, the Appellant made a request for information about the flat in which a Professor at ASC lives. Again, this request is currently under consideration.

[41] This witness explained that she understood from reading the papers in this appeal that the Appellant has a particular interest in the precise terms of the College's charitable objects. Considering this, one can with hindsight see that the "*Governing document*" page of the Charity Commission's website may be of particular assistance to him. The Appellant's request of 10 October 2020 does not, however, specifically refer to the College's charitable aims, and on its face sought confirmation that the College regarded as accurate the broad summary of its aims that appeared (and appears) on the College website. Considering this, it was not apparent that the "*Governing document*" page would be of more assistance to the Appellant than the other information about the College that is available on the websites of the Charity Commission and of the College itself.

[42] The witness noted in this regard that, while the Appellant's request to the Charity Commission identified the specific documents that he sought, his request to the College dated 10 October 2020 did not. Had the Appellant made a request to the College in the same terms as the request that he made to the

Charity Commission, the College would have provided him with the documents in question (or the information therein), subject to consideration of whether any relevant exemption applied.

[43] As to the information contained in the documents that the witness avers that the Appellant had obtained from the Charity Commission:

*“(a) The application form identifies two objects, namely (i) “To promote the study of Philosophy and Arts, of Theology, and of the Civil and Canon Law” [E469]; and (ii) “The offering of prayers for all the souls of the faithful departed” [E472], This information is readily available on the “Governing document” page of the Charity Commission’s website, and in the preamble to the Statutes.*

*(b) The text on the application form underneath each of the two objects sets out the activities that the College undertakes in furtherance of those objects [E469-473], Those activities are not the College’s objects; rather, they are the means by which the College seeks to advance its objects. The College’s activities are in any event described on the College’s website RD1/59-63, 64- 67, 43-45.*

*(c) Section E of the application form concerns private benefits and conflicts of interest [E474-475]. It does not set out objects/aims of the College.”*

**Witness Statements of Orde Levinson:**

[44] The witness on behalf of the Appellant provided three lengthy witness statements and various accounts of experiences with the Governing Body of College (the Second Respondent), some of which were not material to the case at hand. The witness commented on the reasonably available test, the issue of aims and the availability of the Charity Commission form.

[45] The second witness statement referred to alleged misfeasance in public office under section 77 FOIA. it further accused the College of misleading the Tribunal. Thirdly, the witness statement referred to correspondence with a member of the Commissioner’s staff during the March 2020 request. The

witness commented on various documents provided throughout the appeal process. Finally, this witness refuted the contention that the request is vexatious.

### **The appeal Hearing on 9 and 10 June 2022:**

- [46] The hearing, commenced on the 9th of June 2022 with Dr Rima Dapous, the Domestic Bursar representing the College, taking the stand . She affirmed, and adopted her written witness statements and presented for cross examination. The cross-examination exchange for most of the morning was difficult for both parties engaged. Interventions by the Tribunal reminded the parties of the need for respect and assistance in the Spirit of Rule 2 of The Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009 (Consolidated version – as in effect from 21 July 2021) and the overriding objective and the parties' obligation to co-operate with the tribunal.
- [47] Following a comfort break in the cross examination of Dr Dapous, the Tribunal assisted the parties with some preliminary observations. We explained why the First Respondent was entitled to advise the parties on the appropriate Exemption/s for consideration and how this was a proper exercise to be encouraged and not to be criticised or corrected. We indicated that s 14 had quite properly not been referred to in the DN and was not the subject matter of the Appeal. The Tribunal made further observations including, but not exclusive to the following;

#### **Section 14(1) - Vexatious and repeated requests:**

- The DN at the heart of this appeal makes no finding on s.14(1). Indeed, the College, through the witness statement of Dr Dapous stated explicitly that they do not rely on s.14(1) in this case (see Supplementary Hearing Bundle, p.119, para.20). Consequently, we make will no finding

on this exemption, save to say that we note the appropriate apology of Dr Dapous for raising the exemption in its initial response.

- **Reliance by the College on a different exemption (i.e., moving from s.14(1) to s.21(1))** It is well established in case law that a public authority may rely on new or alternative exemptions up to and during the appeal to this Tribunal. The cases of *Birkett v DEFA* [2011] EWCA Civ 1606 and *Information Commissioner v Home Office* [2011] UKUT 17 (AAC) set a legal precedent which this Tribunal must follow in allowing this kind of approach.
- **Whether the request was a request** - It is argued by the College that the letter of 10<sup>th</sup> October 2020 (see OB p.124) did not amount to a valid request under the Freedom of Information Act 2000, (see the College's Response at paras.13-18). The Tribunal agree that a request for an opinion is not a request for recorded information, unless of course the College already did hold recorded information which gave such an opinion. It is clear from the quoted response however that they did not (see para.16). Consequently, it was open to them to respond as they did. It seems though that in view of the pre-amble to the Complainant's letter, i.e. "*I am trying to pin point the aim of ASC*", that the Commissioner considered this could be interpreted as a valid request, hence the application of s.21(1).
- **Section 21(1) - Information accessible to the applicant by other means.** During the hearing via CVP on 9<sup>th</sup> June 2022, the Appellant acknowledged that the request of 10<sup>th</sup> October 2020 (see OB p.124) did not refer to the College's status as a charity, yet it was its aims in this context which were being sought. On a plain reading of the request, it seems quite acceptable therefor that the College directed the Appellant to the publicly available information mentioned in their response, i.e., the general aims as set out in the College's founding charter and statute.

- **Is S21 Engaged:** Much of the appellants concerns in the hearing focused upon the way that the original request was handled by the College including variously, not treating it as an FOI request and then as vexatious. During the appeal process it has become clear that the appellant's fundamental concerns relate to the aims of the charity College of All Souls and the Faithful Departed of Oxford rather than All Souls College itself, and its compliance with its Charitable aims. However, it is a fact that the original request is not clear in this respect, referring to College. In the Tribunal's view it was reasonable for the College to direct the appellant to its website where the aims are clearly available in summary and detail (in the Statutes, Byelaws) etc. The Tribunal has been taken to the relevant sections of the website and is of the view that, in terms of the original request, s.21, which is an absolute exemption, is engaged.

[48] The parties were invited to reflect, and after an appropriate time for the parties to enter discussion, the cross examination resumed in a spirit of mutual respect and co-operation ultimately resulting in a brief adjournment and culminating in a draft Consent Order (see below). Most importantly the tangible difference in approach and attitude of the parties transformed the conclusion of this longstanding dispute. The content of the Consent Order demonstrates how early assistance in the formulation of the request and in identifying and understanding each other's stand points would probably have resolved this appeal without the acrimony, effort, and cost to all concerned. Much is to be learned from this case generally. Public Authorities are not always familiar with the FOIA and EIR legislation and most Appellants, as Litigants in person, are often even less so. If during its investigation after a complaint, the Commissioner advises the Public Authority to assist the complainant in accordance with the s16, duty to assist, much more effective progress could be made. With such guidance to the parties, along with advice as to which exemptions or exceptions are or should be engaged this appeal may not have been necessary. Such shortfalls where they occur may and often do cause great angst between the parties, can and often do result in the need for further



requests which in turn can often be wrongly labelled vexatious. This Tribunal welcomes the development in this appeal where the parties, in the spirit of Rule 2 have resolved their differences without requiring a continuing substantive appeal hearing and Decision on what should have been straightforward matters had more assistance been given in understanding what information was being requested at the outset.

[49] The Consent Order has now addressed the underlying issues that led to the request and the misunderstandings arising. This is a positive edification to be commended. It has resulted in a most satisfactory resolution to the issues between the parties encompassing a true reflection of the significance of Rule 2 of the Tribunal Procedure Rules 2009. The Tribunal wish to formally record their gratitude to Mr Levinson who represented the Appellant company, Dr Dapous who attended on behalf of the College, Mr Molyneaux of Counsel who attended the hearing and represented the College and Mr Bailey, Solicitor who also attended the hearing and represented the Commissioner, on the sterling work they undertook to draft and agree this document and joint decision. We have no hesitation in approving this Consent Order and congratulate all parties in bringing about this sensible resolution to the instant appeal.

[50] **The Consent Order:**

[51] The Consent Order dated 13/6/22 is as exhibited below:

IN THE FIRST-TIER TRIBUNAL  
(GENERAL REGULATORY CHAMBER)  
INFORMATION RIGHTS

IN THE MATTER OF AN APPEAL UNDER  
SECTION 57 OF THE FREEDOM OF INFORMATION ACT 2000

Before: Judge Kennedy QC, Mr Shaw and Mr Taylor

Dated: 10 June 2022

B E T W E E N:

OXFORD PHOENIX INNOVATIONS LTD

Appellant

-and-

(1) THE INFORMATION COMMISSIONER

(2) THE GOVERNING BODY OF ALL SOULS COLLEGE OF THE FAITHFUL  
DEPARTED OXFORD

Respondents

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CONSENT ORDER

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UPON the Appellant's request to the Second Respondent dated 10 October 2020 ("the Request")

AND UPON the Appellant making a complaint to the First Respondent regarding the Second Respondent's handling of the Request

AND UPON the First Respondent issuing a decision notice dated 17 August 2021 ("the Decision Notice")

AND UPON the Appellant's appeal against the Decision Notice ("the Appeal")

AND UPON the Appellant being satisfied that it has now received information which fulfils the Request

AND UPON the Appellant and the Second Respondent having engaged productively in dialogue, in accordance with the Overriding Objective, heeding the Tribunal's encouragement to do so

AND UPON the Appellant and the Second Respondent having agreed the terms set out in the schedule hereto (which terms are not confidential)

AND UPON the Appellant indicating that its decision to withdraw the Appeal is made on pragmatic grounds, in view of (i) the Appellant being satisfied that it has now received information from the Second Respondent which fulfils the Request; (ii) the Appellant's desire to act in furtherance of the Overriding Objective; (iii) the fact that there is now sympathetic, transparent and constructive dialogue between Appellant and Second Respondent; (iv) the Tribunal's encouragement to the parties to seek a negotiated outcome; and (v) the terms agreed in the schedule hereto

AND UPON the Appellant indicating that its withdrawal of the Appeal should not be construed as acceptance (i) of any criticisms made of the Appellant and/or Mr Orde Levinson in the Decision Notice, including in particular the comments at paragraphs 18 and 21 of the Decision Notice (which the Appellant believes on the facts of the case to be false); and/or (ii) that the Appellant did not have an arguable case

AND UPON hearing Mr Orde Levinson as a litigant in person on behalf of the Appellant and Mr George Molyneaux (counsel) on behalf of the Second Respondent

AND UPON the First Respondent having made written submissions only

**BY CONSENT IT IS ORDERED THAT:**

1. The name of the Appellant is amended to "*Oxford Phoenix Innovation Ltd*".
2. The name of the Second Respondent is amended to "*The Governing Body of the College of All Souls of the Faithful Departed, of Oxford*".
3. The Appeal stands withdrawn.
4. The schedule of agreement below is noted.
5. There be no order as to costs.

### Schedule

Oxford Phoenix Innovation Ltd (“OPI”) and The College of All Souls of the Faithful Departed, of Oxford (“the College”) have agreed the following terms:

1. Dr Rima Dapous (the College’s Domestic Bursar) will as soon as reasonably practicable send Mr Orde Levinson (the sole director of OPI) a letter on official College letterhead in the following terms:

*“Dear Orde,*

*I am glad to have this opportunity to apologise to you for the way in which I handled your request of 10 October 2020.*

*I am very sorry that this has caused such grievance to you. I would like to stress that, having reflected on the matter, I do not consider that your request of 10 October 2020 was vexatious at all, or that you yourself as a person were vexatious at all in making it. I am also sorry that it took as long as it did for the College to send you the information that it has now provided to you.*

*I hope this apology goes some way towards making amends for the grievance that the manner in which your request was handled has caused you and for the time that it has taken to address the matter. I am glad that we have managed to talk to one another as people, in a sympathetic way, and shall be glad to meet with you (in person) to hopefully clarify further any misunderstandings that may exist between All Souls College and yourself.*

*With best wishes  
Rima”*

2. Dr Dapous and Mr Levinson will, as soon as reasonably practicable, liaise with one another to find a mutually convenient time at which to meet (in person) to discuss the respective positions of OPI and the College on various matters that have been referred to in the case including but not limited to the aims of the College and its joint equity scheme.
3. OPI and the College will jointly invite the Tribunal to issue a consent order in the form appended hereto.

**Brian Kennedy QC.**

**14 June 2022.**