

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 1 June 2023

Public Authority: The Governing Body of the University of Exeter

Address: Northcote House
The Queen's Drive
Exeter EX4 4QJ

Decision (including any steps ordered)

1. The complainant has requested information about a Community Panel and a Resident Liaison Group. The University of Exeter ('the University') disclosed the majority of the requested information and withheld the names and job titles of the group members under section 40 and 41 of FOIA. These exemptions concern personal data and information provided in confidence respectively.
2. The Commissioner's decision is that the University correctly applied section 40(2) to the majority of the requested information but incorrectly applied both section 40(2) and section 41(1) to the name of the Community Panel Chair.
3. The Commissioner requires the University to take the following step to ensure compliance with the legislation.
 - The complainant has the name of the Community Panel Chair through the associated Terms of Reference that the University disclosed to them. However, the University should disclose the Chair's name where it appears in the redacted Community Panel meeting minutes that the University also disclosed to the complainant.

4. 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

5. The complainant made the following information request to the University on 31 October 2022:

"This request is made under the FOI Act and/or EIR as appropriate.

I would be grateful for the following information about (a) the Community Panel, chaired by the Registrar, and highlighted in the latest "Community" newsletter, and (b) the Resident Liaison Group also referred to in the newsletter.

For each body:

- 1 Its terms of reference
 - 2 The names of its members, and which organisation/interest each member represents
 - 3 How its members were selected
 - 4 The duration of members' appointments
 - 5 The agenda and minutes of all meetings held to date
 - 6 How the effectiveness of the body is assessed
 - 7 The annual running costs of the body."
6. The University disclosed information within scope of six parts of the request and withheld the information requested in part 2 under section 40(2) and 41 of FOIA for both the Community Panel and the Resident Liaison Group. The University continued to rely on sections 40 and 41 following its internal review.

Reasons for decision

7. This reasoning covers whether the University is entitled to withhold the information requested in part 2 of the complainant's request under section 40(2) and/or section 41(1) of FOIA.
8. With its submission to the Commissioner, by way of an example the University has sent a copy of one set of Community Panel meeting minutes. Names have been redacted from this document and it is the

general meeting minutes which the University's submission appears to discuss.

9. However, the information requested in part 2 of the request is the names of the members of the Community Panel and the Resident Liaison Group and which organisation/interest each member represents.

Section 40 – personal data

10. Under section 40(2) of FOIA information is exempt information if it's the personal data of another individual and disclosure would contravene one of the data protection principles. The most relevant principle in this case is that that set out under Article 5(1)(a) of the UK General Data Protection Regulation (UK GDPR). This says that personal data shall be processed lawfully, fairly and in a transparent manner in relation to the data subject.
11. The complainant has requested the names of members of the Community Panel and Resident Liaison Group and the organisation/interest they represent. These individuals are categorised as the 'data subjects' in this case. The University's initial submission to the Commissioner wasn't detailed or clear and the Commissioner subsequently asked the University to provide him with the requested list of names.
12. The University confirmed that the Community Panel is made up of members of University staff and local residents. The Resident Liaison Group is made up of members of University Staff, representatives from Exeter City Council (ECC) and Devon and Cornwall Police and local residents. The University also confirmed that local residents attend the meetings simply because they are local residents; they don't represent any organisation or interest (other than their own interest as a local resident).
13. The Commissioner is satisfied that the requested information is the data subjects' personal data. It would be possible to identify them from their names and, in the case of University staff and police and ECC representatives, what the University described as their "unique job titles." This information also clearly relates to those individuals.
14. The Commissioner considers that the complainant has a legitimate interest and there is a degree of wider public interest in this information that would be met through disclosure. Disclosure would provide transparency about precisely whose views and interests the University takes into account when it makes decisions.
15. The Commissioner has gone on to balance the above interests against legitimate interest(s) or fundamental rights and freedoms of the data

subjects; that is the members of the public, University staff members and representatives of the ECC and police. In doing so, it is necessary to consider the impact of disclosure. For example, if the data subjects would not reasonably expect that the information would be disclosed to the public under FOIA in response to the request, or if such disclosure would cause unjustified harm, their interests or rights are likely to override legitimate interests in disclosure.

16. As discussed, University staff and local residents attend the Community Panel and Resident Liaison Group meetings and representatives of ECC, and the police also attend the Resident Liaison Group meetings.
17. The initial submission the University provided to the Commissioner focusses on the members of the public. As noted, the University had also provided the Commissioner with a set of Community Panel meeting minutes it had disclosed, as an example. In relation to the meeting minutes, the University said that the local residents would not necessarily expect their names "and comments" to be in the public domain. The Commissioner understands the University to mean the comments when associated with the individual who expressed the comment, as only names (and job titles) had been redacted from the minutes.
18. Regarding the set of Community Panel minutes, there is nothing especially sensitive about the matters discussed in these minutes and the Commissioner suspects that all the minutes of both groups' meetings will be similarly uncontroversial. The University has also provided the Commissioner with the Community Panel's and Resident Liaison Group's Terms of Reference. These don't discuss whether or not Panel members should expect their names to be published and the University has not directed the Commissioner to any other document that discusses that point.
19. However, the Commissioner will accept that the local residents who are members of the two groups and who are simply members of the public might nonetheless reasonably expect that their personal data wouldn't be disclosed to the wider world under FOIA and that disclosing it would therefore cause them distress. This is particularly the case given the situation described below.
20. With regard to the local residents, University, ECC and police representatives, the University advised the Commissioner that the complainant is associated with a website about Exeter. The University says that critical views and allegations about the University are expressed on this website, which is generally hostile to the University. The University is concerned that if it releases the residents' and representatives' names, they will be specifically named and their

contributions discussed, perhaps critically, on the website. The University has confirmed that this is the case both now and when the request was submitted in October 2022.

21. The Commissioner considers that the legitimate interest in transparency has been sufficiently met through the information that the University has released ie the meeting minutes (with names and job titles redacted). He considers it is sufficient to know that the two groups in question comprise local residents, members of University staff, the ECC and the police and that it is those organisations and interests that are represented. Knowing the names of the specific individuals doesn't add any further insight.
22. In the circumstances of this case therefore, the Commissioner considers that there's insufficient legitimate interest to outweigh the fundamental rights and freedoms of the members of Community Panel and Resident Liaison Group who are local residents and the majority of the members who are representatives of the University, and the representatives of the ECC and police. He therefore considers that disclosing those names and job titles would be unlawful as it would contravene a data protection principle; that set out under Article 5(1)(a) of the UK GDPR.
23. However, the Commissioner notes that the name of the Community Panel Chair has been redacted from the minutes the University provided to him despite the associated Terms of Reference document giving the name of that Chair. The Commissioner understands that it is this version of the Terms of Reference document that the University disclosed to the complainant. But the name of the Community Panel Chair is also included in other information published online that the Commissioner has found. From a similar, quick internet search, the Commissioner has not been able to find the name of the Chair of the Resident Liaison Group elsewhere.
24. Since their name is already in the public domain (and the University has not indicated that it is exempt under section 21 of FOIA which concerns information already accessible to the applicant) the Commissioner therefore considers that the Community Panel Chair might reasonably expect that their name would be disclosed in response to a FOIA request. Disclosing their name would therefore be fair and lawful.
25. Even though disclosing the Community Panel Chair's name under FOIA would be lawful, it is still necessary to show that disclosure would be fair and transparent. In relation to fairness, the Commissioner considers that if the disclosure passes the legitimate interest test for lawful processing, it is highly likely that disclosure will be fair for the same reasons. The requirement for transparency is met because as a public authority, the University is subject to FOIA.

The Commissioner's view

26. The Commissioner has therefore decided that the University was entitled to withhold the majority of the information requested in part 2 of the request under section 40(2), by way of section 40(3A)(a).
27. But he has decided that the University has failed to demonstrate that the exemption at section 40(2) is engaged in respect of the name of the Community Panel Chair. Because that Chair's name is in the public domain, section 41 of FOIA cannot be engaged either. But since the remaining information **does** engage section 40(2) it has not been necessary for the Commissioner to consider the University's application of section 41 to that information.

Right of appeal

28. 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

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

29. 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.
30. 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
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Cheshire
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