

Information
Management and
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Education

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Mr James J Hermes

By Email only: jamesjhermes@gmail.com

Tuesday, 18 November 2014

Dear Mr Hermes,

Freedom of Information Act 2000 request – Senior staff members salaries

I refer to your request for information to King's College London ("the College") made on 20 October 2014. The College is treating this as a request under the Freedom of Information Act 2000 ("FOIA").

The College holds information falling within the scope of your request. Some of that information is disclosed in this letter. Some of that information is withheld, as we believe it is exempt from disclosure, on the basis explained below.

The Request

You asked for information relating to senior staff members making more than £150,000 in total emoluments for the year ended 31 July 2014. You explained that "emoluments" for this purpose should be considered in line with the Higher Education Funding Council of England (HEFCE) guidelines¹.

These guidelines describe 'emoluments' as being based on the following: "...taxable benefits in kind, but excluding compensation for loss of office and employer pension costs... Payments funded from external sources, including the NHS. Royalties or other payments that are outside the affairs of the HEI do not count as emoluments for this purpose."

Specifically, you asked for:

¹ <http://www.hefce.ac.uk/pubs/year/2014/cl252014/name,87933,en.html>

1. *The names and titles of all senior staff members making more than £150,000 in total emoluments for the year ended 31 July 2014. These individuals are considered "higher-paid staff" by the Higher Education Funding Council (HEFCE).*

2. *Please identify the number of individuals identified in the first request who are:*
 - a. *tenured faculty,*
 - b. *clinical staff, or*
 - c. *serve in a non-classroom capacity, such as administrative staff.*

3. *The total emoluments for the past five (5) years for each of the senior staff identified in the first request.*

The College's Response to Items 1 and 3

In relation to items 1 and 3 of your request above, you have asked for the information to be provided in relation to each relevant employee, by name and job title, which means that the individuals, and the scale of their emoluments, would be identifiable from the information provided. Indeed individuals would be identifiable from their job titles alone, even if the individual's name were to be withheld. Your request is therefore for "personal data" as defined in the Data Protection Act 1998 ("DPA").

The College considers that this information is exempt under FOIA section 40(2), as disclosure would breach the first data protection principle ("DPP1"), set out in Schedule 1 to the DPA.

In the first place, disclosure would breach DPP1 because it would be unfair to the individuals in question. It would be contrary to their reasonable expectations; they would not expect information of this nature to be put into the public domain by their employer. Further, disclosure would be likely to cause distress to these individuals: they would regard this as an unreasonable way for the College to behave; and they

would face a situation where their remuneration would be known and discussed by their work colleagues, professional peers, family, friends and acquaintances.

Secondly, disclosure would not satisfy any of the conditions set out in Schedule 2 to the DPA. For this additional reason, disclosure would be contrary to DPP1.

The information would also be exempt under FOIA section 43(2). Disclosure under FOIA would be likely to prejudice the commercial interests of the College in a number of ways, including the following:

- (i) Disclosure would make it more difficult and more expensive for the College to recruit staff. Prospective recruits would use this information to assist when negotiating their own salaries with the College. At this level of seniority, salaries are set on an individual basis rather than by applying a standard scale.

- (ii) Disclosure would expose the College to an increased risk that its staff would be “poached” by other prospective employers, since those employers would know how much they had to pay in order to match or exceed the salary already being earned by the individual in question.

- (iii) Disclosure would also expose the College to upward pressure on the salaries that it pays to existing staff. Those staff would use as a benchmark the amount currently being paid to colleagues whom they regarded as comparable, and would press for a pay increase if, by reference to that benchmark, they considered themselves underpaid.

- (iv) Finally, disclosure would be likely to cause disruption, ill-feeling and resentment among the College’s staff, as individuals compared their own earnings with those of their colleagues. This would undermine teamwork and morale and make it more difficult for the College to work effectively.

The exemption in section 43(2) is subject to a public interest test. While the College recognises that there is some public interest in openness and transparency in relation to its financial affairs, that public interest is significantly reduced given that much of the College's income does not derive from public funds. Any public interest in disclosure is substantially outweighed by the public interest in the College avoiding the various harms that set out above.

The College's Response to Item 2

In relation to item 2, the total number of employees under the requested categories who received emoluments in excess of £150,000 for the College's academic year ended 31 July 2014 are as follows:

- a. Tenured faculty – 108
- b. Clinical staff – 81
- c. Non-classroom / administrative staff - 7

In reaching this figure the College has used the definition of "emoluments" set out in your request and repeated above.

Further Information

If you are dissatisfied with the handling of your request, you have the right to ask for an internal review. Internal review requests should be submitted within two months of the date of receipt of the response to your original letter and should be addressed to: the Legal Compliance Manager, via the contact details shown at the head of this letter.

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at:

Information Commissioner's Office
Wycliffe House

Water Lane

Wilmslow

Cheshire

SK9 5AF

Yours sincerely

A handwritten signature in black ink that reads "Anne Cameron". The signature is written in a cursive style with a large, stylized initial 'A'.

Anne Cameron
Legal Compliance Manager