

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 25 April 2024

Public Authority: The Governing Body of Clare College

Address: Trinity Lane
Cambridge
CB2 1TL

Decision (including any steps ordered)

1. The complainant has requested information on Clare College's (the College) student housing prices and availability. The College provided links to some information and cited section 21 and stated other information would be published in the future, citing section 22 of FOIA.
2. The Commissioner's decision is that neither section 21 or 22 have been correctly applied to the disputed information, namely that requested at parts 2, 3 and 4 of the request.
3. The Commissioner requires the College to take the following steps to ensure compliance with the legislation.
 - Disclose the information at parts 2, 3 and 4 of the request
4. The public authority must take these steps within 30 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. On 19 July 2023, the complainant wrote to the College and requested information in the following terms:

- "1. Revenues and spending on college owned/operated student housing for the academic year 2022/23 and 2021/22
2. Average price of rent per week and per year for students in 2022/23, and also cheapest and most expensive prices per week
3. Average price of rent per week and per year for students in 2023/24, and also cheapest and most expensive prices per week
4. Number of places for students in halls this coming year
5. How much has rent increased this year?
6. How much has rent increased by over the last ten years?"
6. The College responded on 31 July 2023. For (1) it provided the information for 2021/22 but withheld the 2022/23 information under section 22 of FOIA. The information at (2) and (5) was withheld under section 21, (3) and (4) under section 22 and information requested at (6) was either provided or, in the case of 2021-2024 data, withheld under section 21.
7. The complainant requested an internal review of this decision on 1 August 2023, specifically with regard to the responses to (2), (3) and (4). Following an internal review the College wrote to the complainant with the outcome on 26 October 2023 upholding its position.

Scope of the case

8. The complainant contacted the Commissioner on 26 October 2023 to complain about the way their request for information had been handled.
9. The Commissioner considers that the scope of his investigation is to be to determine if the College has correctly refused to provide the information at part (2) under section 21 and the information at parts (3) and (4) under section 22 of FOIA.

Reasons for decision

Section 21 – information reasonably accessible to the applicant by other means

10. Section 21 of FOIA states that:

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

11. Section 21 is an absolute exemption which means there is no requirement to carry out a public interest test if the requested information is exempt.
12. The Commissioner considers the purpose of section 21 is to protect the resources of public authorities by preventing them from having to reply to requests for information when the applicant can access the information themselves elsewhere. It also acts as an incentive for public authorities to be proactive in publishing information as part of their publication schemes.
13. In the Commissioner's guidance for section 21¹ of FOIA, the Commissioner explains that subsection (1) describes the fundamental principle underlying this exemption. That is, in order to be exempt, the requested information must be reasonably accessible 'to the applicant'. Unlike consideration of most other exemptions in the FOIA, this allows the public authority to take the individual circumstances of the applicant into account.
14. In effect, a distinction is being made between information that is reasonably accessible to the particular applicant and the information that is available to the general public. In order for section 21 to apply, there should be another existing, clear mechanism by which the particular applicant can reasonably access the information outside of the FOIA.
15. Information is only reasonably accessible to the applicant if the public authority:
 - knows that the applicant has already found the information; or
 - is able to provide the applicant with precise directions to the information so that it can be found without difficulty. When applying section 21 of the FOIA in this context, the key point is that the authority must be able to provide directions to the information.

¹ [Information accessible to the applicant by other means \(section 21\) | ICO](#)

16. In this case the information withheld under section 21 by the College is the average price of rent per week and per year for students in 2022/23, plus the cheapest and most expensive rents.
17. Clare College provided the complainant with links to a rooms database² where it was stated the information was available. The complainant argued that the information was not accessible to them as the dataset provided at the link made it impossible to reasonably calculate any of the figures independently as the information could not be downloaded or looked at in a spreadsheet. The complainant also argued the information was in a webpage that would have been impossible to find if the College had not provided a link.
18. The College argues that the links to the student rooms database contains pricing for every student room along with a list of rents and the number of rooms available for students. The College has indicated to the Commissioner that the request contained some 'ambiguous' terms and as such providing the complainant with the full data set for them to analyse was appropriate.
19. The Commissioner had asked the College to provide clear instruction as to how the specific information requested could be obtained via the links provided and the College stated if 'List' is selected the full list of rents for College rooms comes up and this data can be copied into a spreadsheet to be analysed in any way needed.
20. The Commissioner acknowledges that the database provides substantial information on the types of rooms available and the rents for each. However, he is not persuaded the specific information requested is readily available.
21. The Commissioner has viewed the database and attempted to extrapolate the data into a spreadsheet and notes this is not a straightforward process. The data is over 900 lines long and is not organised by cost but by site. The rooms are also then split by who they are available for ie staff, graduates, students, meetings. Again, this is in a list organised by site rather than any other criteria. To work out from the database the cheapest and most expensive rents per year would be time consuming but not impossible, but to do this per week would be almost impossible as the rental prices are only listed by term/9 months. Even if the data could be extracted into a spreadsheet for manipulation this would be a very difficult process and the Commissioner has found the data does not conveniently transfer across to a standard

² [Clare Rooms 2022-23 \(fm.clare.cam.ac.uk\)](https://fm.clare.cam.ac.uk)

spreadsheet without the need to do substantial formatting. Similarly, to calculate averages would require significant manipulation.

22. In view of this the Commissioner considers the complainant would only be able to, at best, work out cheapest and most expensive rent prices per year and even this would involve line by line analysis and would only be an informed estimate as it is possible when looking at that much data that an entry might be missed. The Commissioner is not persuaded the information is readily available to the complainant, it is clear that the database would not allow for much of the information to be calculated without exporting it and this does not seem to be an easy task. The Commissioner does not therefore consider the section 21 exemption is engaged in relation to the information requested at part (2). The Commissioner now expects the College to provide the information requested at part (2).

Section 22 – information intended for future publication

23. Section 22 of FOIA states that:

“Information is exempt information if –

- (a) the information is held by the public authority with a view to its publication, by the authority or any other person, at some future date (whether determined or not),
 - (b) the information was already held with a view to such publication at the time when the request for information was made, and
 - (c) it is reasonable in all the circumstances that the information should be withheld from disclosure until the date referred to in paragraph (a)”.
24. In order to correctly rely on section 22 there must have been a settled intention to publish the requested information prior to the request being received.
25. The information withheld under this exemption is that at parts (3) and (4) of the request – the average price of rent per week and year for student in 2023/24 and cheapest and most expensive prices per week and the number of places for students in halls for the coming year.
26. In terms of the information at part (3) – the average prices and cheapest and most expensive rents – the College stated the rooms

database is updated annually and published for the start of the academic year. The rooms database for 2023/24³ was published in October 2023.

27. For section 22 to apply the College must have had a settled intention to publish the exact information requested. It is clear the College had an intention to publish and update the rooms database for 2023/24 but as the Commissioner has already argued he does not consider that the information in the rooms database is the information the complainant requested and as such the information withheld under section 22 until the publication date is not the specific information the complainant requested. The Commissioner therefore must conclude that the section 22 exemption cannot be applied to the information at part (3) of the request.
28. For the information at part (4) – the number of places for students in halls for the coming year – the College also considered the information was exempt under section 22 for the same reasons ie that the 2023/24 database, once published, would contain the information requested.
29. Again the Commissioner does not consider the exact information requested was intended to be published, or in fact was published. As such the Commissioner is not satisfied section 22(1)(a) is met and section 22(1) is not engaged.
30. The Commissioner now expects the College to provide the information requested at part (3) and (4).

³ [Clare Rooms 2023-24 \(fm.clare.cam.ac.uk\)](https://fm.clare.cam.ac.uk)

Right of appeal

31. 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

32. 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.
33. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Jill Hulley
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF