

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 29 July 2013

Public Authority: The University of Oxford
Address: University Offices
Wellington Square
Oxford
OX1 2JD

Decision (including any steps ordered)

1. The complainant has requested a copy of a report by Sir Peter North into concerns surrounding the admission to the University of Oxford (the University) as a D Phil student of Mr Mehdi Hashemi, son of former Iranian President Akbar Hashemi Rafsanjani. The University withheld Sir Peter North's main report and his supplemental report in their entirety under Sections 41 and 36(2) of the Freedom of Information Act (the Act) and applied Sections 40(2) and 38 to parts of the reports.
2. The Commissioner's decision is that the University correctly applied Section 41 (information provided in confidence) to the requested information and that following a revised disclosure to the complainant by the University of Sir Peter North's key findings and the report's outcomes, no further action is required.

Background to the Request

3. Mr Mehdi Hashemi is the son of former Iranian President Akbar Hashemi Rafsanjani and a prominent and controversial figure within Iranian politics and through his business dealings, having been implicated in torture and extortion¹. Following the disputed Iranian elections of 2009
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¹ In August 2011 the Ontario Superior Court of Justice issued a default judgement against Mr Hashemi in respect of the alleged torture of a business rival between June 1993 and January 1994. An earlier action brought against the Islamic Republic of Iran in 2002 had failed due to State Immunity.

Mr Hashemi left Iran and resided abroad for three years. He returned to Iran in September 2012 and at the present time remains in that country on bail following his arrest for unspecified charges. In the summer of 2010 Mr Hashemi successfully applied to the University of Oxford for admission as a D Phil student in the Faculty of Oriental Studies.

4. Following Mr Hashemi's admission to the University the complainant raised a number of concerns and allegations about the authenticity of his application and Sir Peter North, a former Vice-Chancellor of the University, was asked to investigate these by the Registrar. Sir Peter submitted his report to the Registrar on 18 March 2011. Following further claims made by the complainant and another individual, both of whom were interviewed as part of the original investigation, Sir Peter was asked to carry out a further investigation which he completed in June 2011, with the provision of a supplementary report.
5. In letters dated 5 April and 8 July 2011, the Registrar informed the complainant that although Sir Peter's main and supplemental reports would remain confidential, he had found no evidence to support the allegations made. However, the Registrar did inform the complainant (in the letter of 5 April) that the (main) report did, *'identify a number of matters in relation to the operation of our admissions process for graduate students, which require further consideration. I have, accordingly, asked the University Education Committee to examine these issues as a matter of urgency'*.
6. The Commissioner has been provided with evidence by the University which shows that between March 2011 and May 2012, it received a number of enquiries from the media as to Sir Peter North's findings.

Request and response

7. On 6 September 2011 the complainant wrote to the University and formally requested a copy of the North Report *'into my complaint regarding the admission of Mehdi Hashemi Behremani to Oxford University'*.
8. The University responded on 4 October 2011. It stated that it was withholding the North Report in its entirety under Section 41 (information provided in confidence) and Section 36(2)(c)(information that would or would be likely to prejudice the effective conduct of public affairs). It also confirmed that parts of the report were exempt from disclosure by virtue of Sections 38 (health and safety) and 40(2) (personal information).

9. Following an internal review the University wrote to the complainant on 7 December 2011. Due to the Registrar's previous involvement in the matter related to the complainant's request, the internal review was instead carried out by the Pro-Vice Chancellor. The review upheld the application of all the exemptions applied to the request.

Scope of the case

10. The complainant contacted the Commissioner on 28 May 2012 to complain about the way his request for information had been handled. Following the provision of necessary documentation by the complainant the Commissioner accepted the complaint for investigation on 1 August 2012.
11. Since both Sir Peter North's main and supplemental report related to allegations made by the complainant about Mr Hashemi's admission to the University, the Commissioner considers that both reports fall within scope of the request made following their completion. Consequently, the Commissioner's investigation was to determine whether the University was entitled to withhold both reports on the basis of the exemptions cited above. In this notice they will be jointly referred to as the North Report.

Reasons for decision

Section 41

12. Section 41(1) is an absolute exemption under the FOIA and provides that information is exempt from disclosure if it was obtained by the public authority holding it from any other person (including another public authority) and the disclosure of the information to the public by the public authority would constitute an actionable breach of confidence.
13. Therefore, in order for the exemption to be engaged, the relevant information must meet the following two criteria:
 - Was the information obtained by the public authority from a third party? Would the disclosure of the information constitute an actionable breach of confidence?

Was the North Report obtained from a third party?

14. When considering whether the information in this case was obtained by the University from a third party, the Commissioner would note that it is

the information itself (i.e. the contents of the North Report) and not the document in which it is recorded, which needs to be considered.

15. In submissions to the Commissioner the University has stated that those individuals who were interviewed by Sir Peter North were not acting on behalf of the University for the purposes of his investigation, although some were employees of the University. The University has explained that, *'the information they gave conveyed their personal and private thoughts on the questions that were put to them. It was provided in an independent capacity to the University in order to assist it in a process that was separate from any obligations they might otherwise owe it'*. As support for its position the University referred to the Commissioner's decision notice FS50074593 (a case involving the Medical Research Council) in which it was indicated that factors which could help show that individuals are a third party for the purposes of Section 41 included whether the individuals were free to make whatever comments they felt appropriate and whether they received any payment for doing so.
16. Sir Peter North, a former Vice-Chancellor of the University, was commissioned to investigate the allegations made by the complainant about the admission of Mr Hashemi. The University has pointed out that Sir Peter North is not an employee of the collegiate University but in more than one press release the University stated that *'all internal investigations about individuals are confidential'*. Therefore, whilst it is clear that the North Report was not an independent report in the sense that it was external to the University, the Commissioner nevertheless considers that the contents of the report, be they either the evidence of individuals interviewed or the subsequent assessments and findings of Sir Peter North, were provided to the University in the capacity of independent third parties for the reason given by the University. The Commissioner therefore finds that the North Report and its contents were obtained by the University from a third party or third parties.

Would the disclosure of the North Report constitute an actionable breach of confidence?

17. The Commissioner considers an actionable breach to be not just one that is arguable but one which would, on the balance of probabilities, succeed. Under Section 41, he considers that a breach of confidence will always be actionable if:
 - The information has the necessary quality of confidence;
 - The information was imparted in circumstances importing an obligation of confidence; and

- There was an unauthorised use of the information to the detriment of the confider.²

Does the North Report have the necessary quality of confidence?

18. The Commissioner considers that information will have the necessary quality of confidence if it is not otherwise accessible, and if it is more than trivial.
19. Whilst the University, through its press office, has disclosed a summary of Sir Peter North's main findings into the public domain, and expanded further upon that summary in correspondence to the complainant during the Commissioner's investigation, the full contents of the report have not been disclosed publicly. The information contained within the report is clearly not trivial since it concerns serious allegations made by the complainant about the admission of Mr Hashemi as a D Phil student. For these reasons the Commissioner finds that the report has the necessary quality of confidence.

Was the North Report provided in circumstances importing an obligation of confidence?

20. As previously noted, in response to press enquiries about Sir Peter North's findings, the University confirmed that all internal investigations about individuals are confidential and are not released publicly. It was stated that, *'it is standard practice to communicate the findings of such investigations to the parties involved, but not to give them copies of the full report'*. During his investigation the Commissioner was informed by the complainant that on a prior occasion, he (the complainant) had been given a full copy of a report into a complaint which had been made about himself (unrelated to this matter). The complainant therefore questioned and criticised the different approach taken by the University in regard to the concerns which he had raised about Mr Hashemi's admission.
21. When asked about this by the Commissioner, the University advised that, *'in general the person who commissioned the investigation has the discretion to decide whether in all the circumstances it is appropriate to provide a summary of the investigation's findings or a full copy of the investigator's report'*. The University confirmed that in the case of the complaint against the complainant, the then Registrar decided to

² In the Commissioner's view, showing that the confider will suffer a 'detriment' is not necessarily a prerequisite of an actionable breach in all cases.

provide full copies of the report to the three parties concerned, including the complainant. The University believed that the decision of full disclosure had been taken in that case because the report dealt with issues that were already largely known to the recipients and therefore its disclosure to them involved no breach of confidentiality or privacy. Furthermore, the report concerned matters for which all three individuals had a responsibility and had made recommendations which required their individual and joint action.

22. The University explained that none of the above factors are present in the case of the North Report. It stated that this case is unlike the previous case where the complaint had been about the complainant. At the time of making his complaint about the admission of Mr Hashemi, the complainant was no longer employed by the University and he had no responsibility and no direct interest in the matter. Consequently, the Registrar did not give a copy of the full North Report to the complainant, or to any of the other individuals interviewed.
23. In any event, the University informed the Commissioner that the disclosure of the full report to the complainant in the previous matter had been made on an explicitly confidential basis. In the current case, as the complainant had requested a copy of the North Report under FOIA, any such confidential disclosure was not possible, it being treated as disclosure to the world at large.
24. In respect of the North Report, the University confirmed to the Commissioner that all those interviewed in Sir Peter's investigation had been told that it would be confidential. This had been communicated to them in advance by letter from the Registrar and reaffirmed orally by Sir Peter at the start of each interview. The North Report is itself marked as confidential. For these reasons the Commissioner therefore finds that the report has the necessary quality of confidence and was provided in circumstances importing an obligation of confidence.
25. Although the approach to disclosure adopted in the previous case highlighted by the complainant has no direct bearing on the confidentiality of the North Report on its own particular facts and circumstances, the Commissioner considers that the University has provided a reasonable explanation as to why full disclosure was thought appropriate in the previous case and has thus addressed the alleged inconsistency.

Would an unauthorised use of the North Report cause detriment to the confider?

26. In submissions to the Commissioner, the University has stated that should the confidential information provided by those individuals who

cooperated with Sir Peter's report be disclosed to the world at large, then the individuals concerned would be able to bring claims against the University which would be likely to succeed.

27. Given the confidential basis upon which they were made, the Commissioner notes, from having seen the contents of the North Report, that the opinions and views offered by those interviewed are (as would be expected) candid and frank as regards the subject-matter of the investigation and its surrounding issues. The Commissioner is satisfied that unauthorised use of the report could cause detriment to the confiders. He is mindful that the University has also applied Section 38 (health and safety) to parts of the information requested because of concerns about possible reprisals against some individuals if it were disclosed.

Public interest in confidence

28. Since Section 41 is an absolute exemption there is no requirement for an application of the conventional public interest test. However, disclosure of confidential information where there is an overriding public interest is a *defence* to an action for breach of confidentiality. The Commissioner is therefore required to consider whether the University could successfully rely on such a public interest defence to an action for breach of confidence in this case.
29. Whereas in the case of qualified exemptions, the public interest test operates in favour of disclosure unless exceeded by the public interest in maintaining the exemption(s) applied, the reverse is the case in respect of the duty of confidence public interest test as it is assumed that information should be withheld unless the public interest in disclosure exceeds the public interest in maintaining the confidence.
30. The Commissioner recognises that the courts have taken the view that the grounds for breaching confidentiality must be valid and very strong since the duty of confidence is not one which should be overridden lightly. Whilst much will depend on the facts and circumstances of each case, a public authority should weigh up the public interest in disclosure of the information requested against both the wider public interest in preserving the principle of confidentiality and the impact that disclosure of the information would have on the interests of the confider. Particular weight should be attached to the privacy rights of individuals. As the decisions taken by courts have shown, very serious public interest matters must be present in order to override the strong public interest in maintaining confidentiality, such as where the information concerns misconduct, illegality or gross immorality.

31. Before summarising the respective public interest positions of the University and the complainant, the Commissioner considers it both important and necessary to make clear what information about the North Report has already been released into the public domain by the University.
32. In an email response of 22 May 2012 to an enquiry from Channel 4 News the University confirmed that there were two aspects to the concerns originally raised by the complainant about the admission of Mr Hashemi. Firstly, there was the question of whether Mr Hashemi had paid someone to write the research proposal part of his application. In respect of this allegation, following receipt of the North Report, the University concluded that there was no evidence to substantiate this claim. Secondly, there were, *'questions about the soundness of the academic judgement in admitting him (Mr Hashemi)'*. The University stated that, *'the applicant's academic background and qualifications and consideration of the references both fall within the realm of academic judgement'*. The University went on to explain that:

'Academic judgement is by its nature open to debate, and observers may disagree with it. However, academics are empowered by the University to make those decisions and as long as decisions are motivated only by academic judgement – and there is absolutely no evidence in this case that there was any other motivation or inducement – the University does not retrospectively reverse them'.

33. Similarly, in response to an earlier enquiry from an Iranian-American journalist on 18 December 2011, the University addressed the issues of academic judgement and motives for the decision to admit Mr Hashemi as a D Phil student. It stated that:

'For those who believe the academic decision was a bad one, the question has inevitably arisen of why it was made³. An admissions decision made on anything other than an academic basis would be contrary to the University's principles, so this question has been carefully looked into. The University is confident that the decision was made solely on academic grounds, whatever others think of that academic judgement. The admitting tutors were not under outside pressure to admit this student; nor did they or the University receive any financial gain, or any other inducement, for doing so. Whether or

³ One such example being an article in the January 2012 edition of 'The Weekly Standard' magazine, entitled, 'A Ph.D.in Torture: Why is Rafsanjani's son studying at Oxford?'

not people think the decision was sound academically, it was definitely not corrupt'.

34. When originally examining the above and other press releases by the University concerning the North Report, the Commissioner noted that the University emphasised the fact that the report found no evidence either to substantiate the claim that Mr Hashemi had paid someone to write part of his application or that there had been impropriety on the part of the admitting tutor. Having seen the contents of the report the Commissioner does not consider either assertion to be an inaccurate summation of the findings on the points concerned.
35. However, given the primacy placed upon the importance of academic credentials by the University when deciding whether or not to admit students (in this case for a D Phil), the Commissioner considered that the University could have been clearer on the key findings of the report as regards the soundness of the academic judgement in admitting Mr Hashemi to the University. Without such transparency on this central issue there was a risk that the report's findings might not be fully or fairly recognised in the public domain.
36. The complainant had himself contended, in an email to the Registrar following the University's response of 5 April 2011, that, *'The University cannot have it both ways. It can't, through the press office, say in effect that nothing unusual was found and in a letter to me say something so drastic was found as to start an urgent review of the graduate admissions process'*. The Commissioner was similarly of the view that there was a degree of ambiguity in the University's public statements about the key findings of the report. He therefore suggested to the University that a clearer and more comprehensive summary of the report's key findings would serve to more satisfactorily meet the need for due transparency and openness in this case.
37. The University duly agreed to consider what further information could be provided to the complainant about the report's key findings and it provided him with further information in a letter dated 28 January 2013.
38. Addressing the question of academic judgement, the University explained that in Mr Hashemi's case the lead academic assessing the application believed that there was sufficient potential to approve the application as, *'the Iranian constitution is a relatively under-researched area and the research proposal had identified a gap in the published literature'*. The University noted that if there were doubts about the strength of Mr Hashemi's formal academic qualifications, these were balanced by his direct experience of Iranian politics and government, which had the potential to give him a particular insight into the research topic. In making that judgement, the academic had had in mind a

previous candidate who, *'like Mr Hashemi, did not have a first degree in the social sciences but who went on to complete a successful D Phil in that field'*. However, in retrospect, the lead academic now considered that it would have been more appropriate for Mr Hashemi to have been admitted to a Master's degree, as a possible first step to pursuing a D Phil.

39. The University confirmed that the academic was aware that Mr Hashemi would need to improve his English, but took the decision to waive the English language requirement, instead asking Mr Hashemi to obtain the appropriate qualification (the IELTS certificate) by January 2011. In retrospect, the University stated, *'this decision was a mistake'*.
40. Further information was also provided as to the scope of Sir Peter North's investigation, for as well as being asked to investigate allegations relating to the preparation of Mr Hashemi's D Phil research proposal, *'his report also comments on other concerns which had been mentioned and which became more apparent during the course of his investigation: the standard of English and the residency requirements'*.
41. The University stated that, *'Sir Peter concluded that Mr Hashemi's application should have been scrutinised more closely, and that, in particular, more attention should have been given to the standard of his English. Although the decision to waive the English language requirement was within the prevailing rules, it was, in Sir Peter's view, an error of judgement'*. However, the University repeated that Sir Peter had not found any evidence to support the main allegation which he had been asked to investigate – claims that Mr Hashemi had paid any person to assist with his application or any evidence of impropriety on the part of the academic assessing his application.
42. Regarding the references submitted by Mr Hashemi, the University confirmed that Sir Peter concluded that these, *'were of limited value in terms of assessing his intellectual ability and may have been submitted in close collaboration with him'*, but he had no grounds for believing that they were forged.
43. The University also confirmed that Sir Peter had found in his main report that Mr Hashemi had been in breach of the University's residency requirement since his matriculation, although he noted in his supplementary report that the Proctors had subsequently given Mr Hashemi approval to reside outside Oxford for the rest of the academic year.
44. Finally, the University advised that in April 2011 the Registrar requested that the Education Committee examine a number of issues arising from the North Report, as part of an established on-going programme of

improving the postgraduate admissions process. Further details of such changes as had been made were provided.

45. The additional information provided to the complainant by the University in its disclosure of 28 January 2013, significantly expands upon the remit of the North Report and its key findings. The Commissioner considers that the further information disclosed provides a more comprehensive and clearer account of the report's findings.
46. However, the complainant was not satisfied with the additional information released by the University during the Commissioner's investigation and so the Commissioner will now turn to address the respective public interest positions of the parties, in the context of Section 41 in relation to the information which continues to be withheld.

The University's Position

47. In submissions to the Commissioner in March 2013, the University put forward a number of public interest arguments in addition to the inherent public interest in maintaining the duty of confidence. The Commissioner would note that in doing so the University provided a more detailed rationale for the use of Section 41 than had previously been provided to the complainant.
48. The University confirmed that the model of investigation applied in the Hashemi case is the same as that which it uses to investigate complaints of bullying or harassment or other forms of misconduct that might lead to disciplinary proceedings. There is a strong public interest that those with grievances about the behaviour of others within the same organisation should have sufficient confidence in the organisation's investigative process to make complaints about such behaviour. Consequently, there is also a strong public interest that such complaints should be investigated thoroughly and impartially.
49. Since investigations into complaints inevitably involve matters of a sensitive and private nature, the University stated that, *'if those involved did not trust the University to maintain confidentiality, it is unlikely they would be willing to speak candidly and to provide the necessary evidence'*. It was submitted by the University that, *'the knowledge that a 'confidential' report commissioned under the University's investigation procedures had been disclosed under the FOIA, even in a redacted form, would severely undermine levels of trust, and deter people from coming forward'*. Such deterrence or inhibition might mean that legitimate grievances were not investigated and that inappropriate (and possibly unlawful) behaviour, e.g. involving discrimination, would continue, which would not be in the public interest.

50. The University also made clear its concerns about the need to protect the privacy of the individuals named and discussed in the North Report. With the exception of Mr Hashemi, it asserted that, *'none has a significant public profile, and each has a legitimate and reasonable expectation of privacy'*. The University pointed out that much of the information in the report relating to individuals is of a sensitive and private nature. Even Mr Hashemi's status as a public figure did not, in the view of the University, *'outweigh completely considerations of privacy'*. The University recognised that items of personal data can sometimes be redacted, *'but given the publicity that this matter has received in the media, it seems unlikely that redaction would be effective in protecting the privacy of the individuals concerned'*. It was suggested by the University that the need to protect privacy was particularly important in the case of Mr Hashemi and the individual whom it was alleged he had paid to assist with his application, given the health and safety risks which each might be exposed to in Iran⁴.

51. In terms of the public interest arguments in favour of disclosure, the University stated that the North Report, *'reveals no misconduct or wrongdoing by the University and indeed no such misconduct or wrongdoing was alleged by (the complainant)'*. Importantly, the University confirmed that the original complaint made by the complainant did not allege *'that Mr Hashemi was admitted because of corrupt behaviour by the University'*, rather it had alleged corruption on the part of Mr Hashemi and the individual alleged to have been paid to prepare his research proposal, an allegation which Sir Peter North had found no evidence to support.

52. In final submissions to the Commissioner the University stated as follows:

'We recognise that there is a genuine public interest that admissions criteria (particularly those at leading universities) should be applied equitably and that when doubts are raised about this, it is in the public interest that they are addressed in an open and transparent fashion'.

By the additional information disclosed in its letter to the complainant of 28 January 2013 (detailed in paragraphs 38-44 above), the University considered that it had adequately addressed that public interest and had provided, *'a fair and balanced account of this whole matter'*.

⁴ The Commissioner notes that this concern was more directly contended via the University's application of Section 38 to parts of the report.

The Complainant's Position

53. The Commissioner received a number of detailed submissions from the complainant⁵ which included very serious allegations made against one of the individuals involved in the decision to admit Mr Hashemi to the University. Much of the information provided related to Mr Hashemi's history and associations as known to the complainant or as reported in the media. The complainant was explicitly critical of the decision to admit Mr Hashemi to the University believing that his admission, *'denigrates the calibre of the University as a whole'*. He stated that, *'In the wake of the Gaddafi scandal at the London School of Economics, the questionable character of (Mr Hashemi) similarly brings the University of Oxford into disrepute'*. The complainant noted that it was not clear how the University had dealt with Mr Hashemi following the issuing of the default judgement against him for torture in August 2011. He argued that disclosure of the North Report would shed light on whether the University had knowledge of, and had investigated, the *'dark reports'* of Mr Hashemi's past.
54. The complainant essentially alleged that what he described as *'the extraordinary procedures'* used in the admission of Mr Hashemi (such as the decision to waive the English language requirement and the questions as to the suitability of the formal academic qualifications and background) looked like highly discriminatory decisions taken in Mr Hashemi's favour by the admitting tutors. The complainant stated that he believed that Mr Hashemi's admission, *'under these highly discriminatory circumstances will lay the University open to litigation on discrimination grounds in future by candidates who have superior credentials to (Mr Hashemi) but are declined admission. It cannot be in the public interest that the University, a publicly funded body, lays itself, through the actions of two insiders, to such a legal time bomb'*.
55. The complainant referred to *'reported close relationships'* between Mr Hashemi, his family and the academics that reviewed his application, and stated that, *'the release of the North Report would shed much needed light on the University's investigation into the impartiality of (Mr Hashemi's) admission into Oxford for a doctoral study'*.
56. Referring to the Registrar having *'tacitly acknowledged'* issues with Mr Hashemi's admission through his letter of 5 April 2011 in which it was

⁵ The Commissioner also received a detailed letter from an associate of the complainant who had been interviewed as part of Sir Peter North's investigation and who was similarly critical of the University's withholding of the full report.

confirmed that a number of matters in relation to the operation of the admissions process for graduate students were being examined as a matter of urgency, the complainant stated:

'Transparency in admitting what these problems were would be a positive step towards improving openness in University admissions criteria, as well as an opportunity for the public to understand the nature of any special circumstances that permit a waiver of such criteria'.

Without a more detailed disclosure of the North Report and its findings, the complainant contended that it could not be known whether *'the extraordinary nature'* of Mr Hashemi's admission had been thoroughly investigated.

57. In final submissions to the Commissioner in March 2013, the complainant made clear that he was not satisfied with the additional information disclosed to him by the University. He maintained that, *'the public has the right to know whether the central allegation that I have made, namely that (Mr Hashemi's) admission to Oxford was secured by corrupt means, was investigated or not'*. The complainant proceeded to make serious allegations about one of the individuals involved, and informed the Commissioner that, *'From what you have secured for me out of the Registrar, I see not even a hint that (Sir) Peter North even began to ask the relevant questions that would address the matter of corruption for personal gain, even though he did discover that the admission was seriously flawed'*.

Commissioner's Assessment

58. The Commissioner has carefully considered all the arguments made by both parties in this matter, but it is important to be clear about what he can, and cannot do, in terms of assessing the public interest aspects of this case.
59. The admission to Oxford University of an individual with as controversial and widely publicised a history as Mr Hashemi clearly raises a number of public interest questions in terms of transparency and accountability for the decision taken. Whilst the Commissioner notes that the University has suggested that Mr Hashemi's profile in this country, *'should not be overstated'*, he would also note that what public profile Mr Hashemi does have in this country has been largely caused by the decision to admit

him to the University⁶. Having taken such a decision it would be unrealistic for the University not to expect a substantial degree of media interest and public scrutiny for the same.

60. However, under Section 41, the Commissioner's role is not to determine whether there is a public interest in disclosure of the withheld information, but to consider whether, in the circumstances of this case, there would be an overriding public interest defence to an action for breaching the expressly imposed obligation of confidentiality by disclosing the North Report. The Commissioner's consideration in this matter must be confined to the specific withheld information (that contained in the North Report).
61. The majority of the public interest arguments put forward by the complainant (and his associate) are predicated on the premise that full disclosure of the North Report would demonstrate how rigorously the University has investigated *all* the issues arising from Mr Hashemi's previous presence as a postgraduate student. But that premise is incorrect. The terms of reference of the North Report were to investigate the allegation that Mr Hashemi paid an individual to assist with the research proposal part of his application, and whether there was a basis to institute formal proceedings against Mr Hashemi in relation to such a claim. Whether the terms of reference should have been wider and what powers were available to Sir Peter during his investigation are not issues which the Commissioner is either required or able to consider.
62. Without divulging the contents of the report, the Commissioner notes that Sir Peter's investigation encompassed such matters as Mr Hashemi's academic ability, his command of English and the references supplied by him. Consideration of those matters inevitably meant some commentary on the soundness of the academic judgement in admitting Mr Hashemi. Sir Peter did make some contextual comment about Mr Hashemi's presence at the University but this is not unusual in a report of this nature. The key findings of the North Report relate to the allegation which prompted it in the first place and the associated assessment of Mr Hashemi's academic ability and the authenticity of his application.
63. The Commissioner makes the above observations to emphasise that disclosure of the North Report would not fulfil the public interest case

⁶ (e.g. 'Oxford Investigates Former Iranian President's Son Over DPhil Application' – The Guardian, 27 March, 2011)

contended by the complainant. The serious nature of the complainant's allegations surrounding Mr Hashemi's admission to the University has developed over time, culminating in allegations of corruption and discrimination (in favour of Mr Hashemi) by named individuals. There may be a public interest case for the investigation of such allegations by the University but what is clear is that such allegations did not fall within the remit of Sir Peter North's investigation and so are well outside the scope of the Commissioner's investigation and this decision notice.

64. The Commissioner recognises and accepts that in the wake of the controversy surrounding Saif-al-Islam Gaddafi's financial links to the London School of Economics (LSE), there is considerable public interest in the impartiality of university admissions decisions. However, the LSE case is not directly comparable or analogous to the present case. Sir Peter North was not asked to investigate 'cash for places' allegations in respect of Mr Hashemi and in November 2011 the University publicly stated that, *'there have been no allegations that a student has been admitted under an expectation of future monetary gain or other gain for the University'*.
65. The complainant's submissions to the Commissioner of 14 March 2013 primarily revolve around allegations of personal corruption against one named individual associated with Mr Hashemi's admission to the University. Sir Peter North was not asked to investigate such allegations (aside from the allegation concerning Mr Hashemi and the other individual alleged to have been paid for assistance). The Commissioner understands that the University has received no formal complaint about the individual discussed in the complainant's submissions to the Commissioner.
66. The University has confirmed that the model of investigation used in the Hashemi case is the same as that used in other complaints of misconduct that might lead to disciplinary proceedings. It has also emphasised the importance of protecting the confidentiality of those interviewed and the sensitive information which they provide. The Commissioner considers that there is a strong public interest in recognising and enforcing an obligation of confidence, especially one expressly provided for as in this case.
67. In assessing whether the University would have a public interest defence to breaching its express obligation of confidentiality, the Commissioner has examined what information about the North Report's *'main findings'* the University has already provided to the complainant.
68. Put simply, the primary public interest attached to the North Report concerns what Sir Peter was asked to investigate and what his key findings were. Whilst the University's earlier press releases on this

subject were not as comprehensive or clear as they could have been, the information provided to the complainant in the University's disclosure letter of 28 January 2013 is clear and more detailed.

69. The Commissioner believes that an explicit duty of confidence should not be overridden lightly, especially where the information obtained subject to that duty concerns sensitive matters which could have adverse repercussions for individuals concerned⁷. Were the North Report to be disclosed in full, then the Commissioner considers that there is a real risk that the ability of the University to undertake effective and rigorous investigations in future could be significantly undermined. Individuals would be less likely to come forward or cooperate as fully as they could do if they thought that their confidentiality would not be protected.
70. The Commissioner does not consider that the information in the North Report which remains withheld (i.e. that information not disclosed to the complainant) comprises anything of significance to indicate the existence of an overriding public interest which could amount to a defence to an action for breach of an explicit duty of confidence. Specifically, if the information in the North Report indicated proven misconduct or illegality, rather than mere allegations of such behaviour and questionable academic judgement, the Commissioner might have reached a different conclusion.
71. Therefore, for the reasons explained, the Commissioner finds that the University has provided the complainant with appropriate and proportionate information as to the contents of the North Report and that the remaining information was correctly withheld under Section 41.
72. In view of his above finding in respect of Section 41, the Commissioner has not gone on to consider the applicability of the other exemptions cited by the University (Section 36(2)(c), Section 40(2) and Section 38).

⁷ Most notably the individual alleged to have been paid to assist Mr Hashemi with the research part of his application.

Right of appeal

73. 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: 0300 1234504

Fax: 0116 249 4253

Email: informationtribunal@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

74. 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.
75. 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

**Graham Smith
Deputy Commissioner
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF**