

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 4 January 2024

**Public Authority:** Southern Universities Management Services Ltd

**Address:** The University of Reading  
Whiteknights  
Reading RG6 6BU

#### Decision (including any steps ordered)

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1. The complainant submitted a request for information to the Southern Universities Purchasing Consortium (SUPC) about a travel services framework agreement.
2. The Commissioner's decision is that, on the balance of probabilities, SUPC doesn't hold the requested information. SUPC has complied with section 1(1) of FOIA, and no corrective steps are necessary.
3. This decision notice discusses SUPC and its response to the request and submission to the Commissioner. However, SUPC is a division of, and governed by, Southern Universities Management Services Ltd, on whom this notice is therefore served.

#### Request and response

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4. Following on from earlier correspondence and request for information to SUPC in 2022, the complainant made the following, new request to SUPC on 4 July 2023:  
  
"...Taking EWHC1841 as case precedent, not having the correct data (ie lounge data in this case) puts the legality of resulting contracts at risk..."

...With regards the above framework agreement [TRAVEL SERVICES] , please supply for the last full year:

1. Transaction/invoice reference and description
  2. Supplier/TMC handling ie one of those listed <https://www.supc.ac.uk/frameworks/972/>
  3. HMG entity calling off from the framework
  4. Cost centre/Directorate/Project calling off from the framework
  5. Name and contact details of Chief Executive of entity calling off from the framework
  6. Transaction value in GB"
5. On behalf of SUPC, in a response to the request on 17 July 2023 Southern Universities Management Services (SUMS) advised that SUPC didn't hold the information requested in Q1, Q3, Q4, Q5 and Q6 as it isn't the contracting authority. SUMS asked the complainant to clarify Q2 as that information [if held] might be commercially sensitive.
  6. The complainant responded on the same day, 17 July 2023. In this correspondence they discuss "a suspected breach of s56 PCR [Public Contract Regulations] 2015 across public sector travel framework agreements" and refer to framework agreement "RM6217."
  7. On 26 July 2023 SUMS on behalf of SUPC advised it wasn't able to disclose any further information about spend as such information was commercially sensitive. SUMS also confirmed that SUPC isn't the contracting authority and so doesn't hold the level of detail requested. SUMS clarified that SUPC's framework doesn't relate to the "CCS [Crown Commercial Service] Framework RM6217" because that's a separate agreement.
  8. However, SUPC then provided a formal internal review on 22 August 2023. It summarised the correspondence with the complainant including the earlier request in 2022. It advised that the complainant's correspondence of 17 July 2023 hadn't provided the requested clarification but noted that the complainant had referred to CCS Framework RM6217. SUPC noted SUMS' correspondence to the complainant of 26 July 2023 and made it clear that SUPC isn't responsible for CCS Framework RM6217.
  9. SUPC also noted that on 27 July 2023 the complainant had forwarded an email chain containing details of a separate FOIA request they had made to "YPO" [this may be a reference to Yorkshire Purchasing Organisation] about a different framework agreement. The complainant had provided the responses they had received from YPO and asked SUPC if it wished to reconsider its position in light of these.

10. SUPC confirmed that it doesn't hold any further information which is relevant to the request[s]. It said it had reviewed the information provided by YPO and considered that it isn't relevant to the current request as it relates to a different framework agreement. SUPC advised that its internal review response brought the matter to a close.

## **Reasons for decision**

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11. The Commissioner will first explain why he considers that SUPC is a public authority for the purposes of FOIA. The notice will then focus on whether, on the balance of probabilities, SUPC holds any further information within scope of the complainant's request of 4 July 2023.

### **Is SUMS a public authority for the purposes of FOIA?**

12. In its submission to the Commissioner, SUPC explained that it's one of the largest purchasing consortia in England. It's a charity and not-for-profit organisation which acts on behalf of its members. SUPC's members are universities, further education colleges and educational charities from across the south of England.
13. The Commissioner has noted that SUPC states on its website that it's an operating division of SUMS and is governed by the SUMS Board. SUMS' registered office and operational address is the University of Reading and, from HMRC records, at 31 July 2022 SUMS' Directors were all members of different universities. (SUPC's address is also the University of Reading, and it uses a University of Reading email account.)
14. In addition, SUPC has confirmed to the Commissioner that SUMS is owned by its members (those referred to in paragraph 12) who are the principal beneficiaries. SUMS is governed by the SUMS Board, which is made up of directors appointed from SUPC'S and SUMS Consulting's memberships. (SUMS Consulting is a second operating division of SUMS, and Procurement Shared Service is the third.)
15. Section 3(1)(b) of FOIA states that a publicly-owned company as defined by section 6 is a public authority for the purposes of FOIA. A company is 'publicly-owned' if it's wholly owned by the wider public sector.
16. The 'wider public sector' owns a company when every member is a 'relevant public authority' or a company also owned by the 'wider public sector'. The term 'relevant public authority' is defined in section 6(3) in FOIA as any public authority listed in Schedule 1, with two exceptions that aren't relevant here.

17. Given SUMS' (and SUPC's) membership and governance the Commissioner is satisfied that SUMS meets the definition of a public authority under section 3(1)(b) of FOIA.

### **Section 1 – general right of access to information held by a public authority**

18. Section 1(1) of FOIA obliges a public authority a) to confirm whether or not it holds information that's been requested and b) to communicate the information if it's held and isn't exempt information.
19. In its submission SUPC has explained that its members use SUPC's professionally tendered, compliant framework agreements and related support services to help ensure that their procurement activities deliver value for money to students, staff and wider communities. It's therefore SUPC's members who contract with and use the services provided by suppliers under SUPC's framework agreements rather than SUPC itself.
20. SUPC has gone on to advise that the complainant's request of 4 July 2023 concerns SUPC's Travel Management Services Framework Agreement (PFB4039 SU) ('the Framework Agreement'). As its internal review response letter noted, this is the second FOIA request the complainant has made in respect of the Framework Agreement. SUPC says it has already provided the complainant with relevant information that it holds within the scope of both requests, including the total spend flowing through the Framework Agreement.
21. However, as SUPC has explained to the complainant, it doesn't hold any further information within the scope of the request of 4 July 2023. SUPC's members rather than SUPC itself are the contracting entities under the Framework Agreement and SUPC does not ordinarily receive the level of detail requested by the complainant from its members. SUPC says it has explained this to the complainant on several occasions and also suggested that they contact relevant SUPC members directly in order to obtain the level of detail they're looking for.
22. SUPC has confirmed that its position therefore remains that it doesn't hold any further information which falls within the scope of the request and that there's nothing further SUPC can do in relation to the request.

### **The Commissioner's conclusion**

23. The complainant has requested information about a travel services [purchasing] framework agreement and has referred to framework agreement RM6217. SUPC has explained that the framework it uses - PFB4039 SU - isn't related to RM6217, as RM6217 is a separate agreement for which it isn't responsible.

24. SUPC has also explained that it doesn't request the level of detail the complainant is seeking from its members, that it's SUPC's members who contract with suppliers under PFB4039 SU, and that the complainant would therefore need to approach those members for the specific information they're seeking.
25. The Commissioner is satisfied with SUPC's explanation and in his view SUPC would have a sound understanding of the frameworks for which it's responsible and the related information it does or doesn't hold. On the balance of probabilities, therefore, the Commissioner finds that SUPC holds no information relevant to the complainant's 4 July 2023 request and has complied with section 1(1) of FOIA.

## **Right of appeal**

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26. 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](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

27. 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.
28. 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**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**