



[REDACTED]

16 April 2021

Dear [REDACTED],

**Freedom of Information request: FOI2021/00156**

Thank you for your Freedom of Information request received on the 17 March in which you requested the following:

**Your request:**

*I have the following questions regarding shared parental leave and information published by UKRI contained on the following URL:*

<https://www.ukri.org/news/update-to-the-ukri-fec-grant-and-training-grant-terms-and-conditions/#:~:text=UKRI%20has%20amended%20the%20training%20grant%20terms%20and.sought%20to%20emulate%20the%20statutory%20entitlement%20of%20employees.>

1. *How many PhD funded students were granted shared parental leave under UKRI policy which became active in 2015 and "sought to emulate the statutory entitlement of employees"[1]?*
2. *Which research organisations informed you that they could not operate SPL or ShPP policies for UKRI students?*
3. *Which specific research organisation made you aware of the situation?*
4. *Can you provide minutes of the meeting with the Research Organisation Consultation Group (ROCG) where shared parental leave was discussed?*
5. *Did you receive legal advice stating that UKRI could not emulate statutory shared parental leave policy. And if so, could you please supply this advice?*

**Our response:**

I can confirm UK Research and Innovation (UKRI) hold some information relevant to your request. Please see the information below and attached.

1. *How many PhD funded students were granted shared parental leave under UKRI policy which became active in 2015 and "sought to emulate the statutory entitlement of employees"[1]?*

This information is not held. To explain further, UKRI's grant system holds information on when studentships have been placed on hold, but not the reasons for the change of status. We, therefore, do not hold information on how many students were granted shared parental leave. This information will be held by institutions in receipt of UKRI training grants.

2. *Which research organisations informed you that they could not operate SPL or ShPP policies for UKRI students?*

UKRI received queries about clarifying the wording of its policy around paternity leave and the sharing of parental leave/pay and how or if its implementation could be aligned with the statutory schemes from a number of Higher Education Institutions (HEI).

We received specific, related questions from Cardiff University and the Universities of York, Nottingham and Oxford. None of these institutions told us they could not operate their own informal policies for supporting paternity leave or shared parental leave for UKRI students, but did inform us that these policies or schemes would be separate to the requirements of the SPL and ShPP schemes for employees as defined in regulation.

3. *Which specific research organisation made you aware of the situation?*

The University of Oxford made UKRI aware of the situation as mentioned in the link referenced, identifying that UKRI students did not meet the criteria for the statutory schemes as they were not employees of HEIs. They also identified that some HEIs may have sought to operate informal systems of shared funded leave, outside the statutory framework.

4. *Can you provide minutes of the meeting with the Research Organisation Consultation Group (ROCG) where shared parental leave was discussed?*

Please see attached document “*FOI2021.00156 ROCG meeting notes 11.09.20\_Redacted*”.

The redactions to this document are in relation to other subject matters that are not within the scope of your request. No redactions have been made to the portion of the meeting where shared parental leave was discussed.

5. *Did you receive legal advice stating that UKRI could not emulate statutory shared parental leave policy. And if so, could you please supply this advice?*

We can confirm that UKRI did obtain legal advice on proposed amendments to the training grant terms and conditions in respect of parental leave, however under Section 42(2) - legal professional privilege, of the Freedom of Information Act 2000 (FOIA), we can neither confirm nor deny whether we received legal advice stating that UKRI could not emulate statutory shared parental leave policy.

Section 42(1) provides that information is exempt from disclosure in respect of which a claim to legal professional privilege could be maintained in legal proceedings. Section 42(2) provides an exclusion from the duty placed on a public authority such as UKRI to confirm or deny the existence of the information if the act of confirming or denying would involve the disclosure of any legally privileged information. We believe that is the case in regard to your request.

This is a qualified exemption, meaning that a test was carried out to determine whether the public interest outweighs the requirement to maintain legal professional privilege.

#### **Public interest in favour of disclosure**

- There is a general public interest in the disclosure of this information to ensure transparency and openness of a public organisation.
- There is a requirement for UKRI to be accountable and transparent in its processes and decision making. Releasing legal advice that has been received may shed light on decisions made by UKRI.

#### **Public interest in favour of withholding the information**

- Decisions by public authorities should be made in a fully informed legal context. There is a strong public interest in protecting communications, if held or not, between lawyer and client which is

considered to be confidential and to protect the ability for UKRI to be able to seek out legal advice. Without recourse to such advice, a public authority's decision making may be compromised because it will not be fully informed.

- Confidentiality between professional legal advisors and clients is the foundation of legal and professional privilege as it ensures open, honest and frank exchanges between the client and the advisor. This will then result in high quality legal advice that fully address any issues that is raised during these confidential discussions. Having comprehensive advice that takes into account all factors, including potential weaknesses, allows public organisations, such as UKRI, to make fully informed and quality decisions, which is in the public interest. However, if a legal advisor is aware that their advice is to be disseminated publicly or they are not as candidly briefed due to an awareness of likely disclosure, the quality of the advice and thus the subsequent decisions will be compromised.

Taking the above arguments into consideration, we reached the decision that the need to maintain legal professional privilege outweighs the public interest in disclosure and have therefore determined that this is best served by issuing a neither confirm nor deny response under Section 42(2) of the FOIA.

The fact that section 42 of the FOIA has been engaged should not be taken as an indication that the information you requested is or is not held by UKRI.

If you have any queries regarding our response or you are unhappy with the outcome of your request and wish to seek an internal review of the decision, please contact:

Head of Information Governance

Email: [foi@ukri.org](mailto:foi@ukri.org) or [infogovernance@ukri.org](mailto:infogovernance@ukri.org)

Please quote the reference number above in any future communications.

If you are still not content with the outcome of the internal review, you may apply to refer the matter to the Information Commissioner for a decision. Generally, the ICO cannot make a decision unless you have exhausted the review procedure provided by UKRI. The Information Commissioner can be contacted at: <http://www.ico.gov.uk/>

If you wish to raise a complaint regarding the service you have received or the conduct of any UKRI staff in relation to your request, please see UKRI's complaints policy: <https://www.ukri.org/about-us/policies-and-standards/complaints-policy/>

Yours sincerely,

  
Information Governance  
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UK Research and Innovation  
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