



**FIRST-TIER TRIBUNAL  
GENERAL REGULATORY CHAMBER  
Information Rights**

**Tribunal Reference:** EA/2013/0268  
**Appellant:** David L Hicks  
**Respondent:** The Information Commissioner  
**Judge:** NJ Warren

**DECISION NOTICE**

1. About eight years ago Mr Hicks brought proceedings against Peterborough Regional College (“the College”) in the Employment Tribunal and in the local County Court. He lost on both occasions. He was then unsuccessful in an attempt to appeal the County Court decision; an attempt to bring judicial review proceedings; and in an attempt to appeal to the Court of Appeal against the refusal of permission for Judicial Review.
2. The material before the Employment Tribunal and the County Court included a witness statement which had attached to it the witness’s CV. The witness was a College employee.
3. On 7 January 2013 Mr Hicks made a request to the College under the Freedom of Information (FOIA) in respect of the witness. He wanted to have full details regarding the administrative position in which she was employed before February 2004. He wanted to know the job title and the exact date on which her employment in this particular position ended. The College refused his request under Section 40(2) FOIA because the information requested was the personal data of the witness.
4. The public right to information does not trump the rights to privacy in relation to personal data accorded to citizens under the Data Protection Act (DPA). Personal data cannot be disclosed under FOIA unless the disclosure amounts to lawful processing of the data under the DPA.
5. In practice, this means that there must be some legitimate interest being pursued for which disclosure is necessary. See the discussion in South Lanarkshire Council v The Scottish Information Commissioner (2013) UKSC 55,
6. With this in mind I have enquired of Mr Hicks the purpose of his Information request and the use to which he intends to put the information. He has replied to say that he wants to find out whether the information in the CV produced in Court

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all those years ago is correct. He says that release of the information would provide “a full picture of what has happened” and help to show whether there has been any wrong doing on the part of the college. He says this is of considerable interest to the general public and that there is also a public interest in determining whether Peterborough complied with the Data Protection Act in the 2005 proceedings.

7. In my judgement, it would be impossible for a Tribunal to conclude that this constitutes a legitimate interest making necessary the disclosure of personal data. If anything, the argument is all the other way. Mr Hicks’ dispute with the college has been taken to its limits through the Tribunals and the Courts.
8. For this reason, and for those given by the ICO in his strike out application, I consider that the appeal has no reasonable prospect of success. It would be unjust to the ICO to permit it to continue and I therefore strike it out.

**NJ Warren**

**Chamber President**

**Dated 10 March 2014**