

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 16 August 2012

Public Authority: London Borough of Camden
Address: Camden Town Hall
Judd Street
WC1H 9LP

Decision (including any steps ordered)

1. The complainant requested the names of the Enforcement Officers who issued three specific parking penalty notices. London Borough of Camden ('the Council') initially stated that it did not hold the information requested and referred the complainant to a third party it contacted to carry out parking enforcement activities on its behalf. During the course of the Commissioner's investigation, the Council confirmed that it held the information requested for the purposes of the FOIA. It disclosed the identification numbers of the individuals, but withheld their names under section 40(2) of the FOIA. The Commissioner's decision is that the Council correctly applied section 40(2) to the remaining information held relevant to the request. He does not require any steps to be taken.

Request and response

2. On 26 January 2012, the complainant wrote to the Council and requested information in the following terms:

"The names of the Traffic Warden who had issued the penalties Notices on Motor Vehicle Registration Number [Registration number of car driven by complainant]

1. CU-10063778 - 12-36 on 26-11-2007
2. CU-10079020 - 12-55 on 26-11-2007
3. CU-10045710 - 13-15 on 26-11-2007"

3. The Council responded on 9 February 2012 stating that it did not hold the information requested and referred the complainant to a third party who were contracted by the Council to carry out the issuing of penalty notices.
4. On 9 February 2012, the complainant requested an internal review of the Council's response to his request.
5. The Council provided the outcome of its internal review on 6 March 2012 and upheld its position that it did not hold the information requested.

Scope of the case

6. The complainant contacted the Commissioner to complain about the way his request for information had been handled.
7. During the course of the Commissioner's investigation, the Council confirmed that it held the identification number of the Enforcement Officers. It also stated that whilst it did not hold the names of the individuals, due to the nature of the contractual relationship with the service provider contracted by the Council to carry out parking enforcement activities, it would be able to ascertain the names. As such the Council accepted that the information was held for the purposes of the FOIA. The Council disclosed the identification numbers of the Enforcement Officers, but withheld their names under section 40(2) of the FOIA.
8. The Commissioner therefore considers the scope of this complaint to be whether the names of the Enforcement Officers who issued the penalty notices in question should be disclosed, or whether the Council correctly withheld this information under section 40 of the FOIA.

Reasons for decision

Section 40 – personal information

9. Section 40(2) of the FOIA states that information is exempt from disclosure if it constitutes the personal data of a third party and its disclosure under the FOIA would breach any of the data protection principles or section 10 of the DPA.
10. In this case, the Council argued that the requested information is the personal data of the Enforcement Officers who issued the penalty notices in question and that disclosure under the FOIA would breach the first data protection principle.

Is the requested information personal data?

11. In order to rely on the exemption provided by section 40, the information being requested must constitute personal data as defined by section 1 of the DPA. It defines personal information as data which relates to a living individual who can be identified:
- from that data,
 - or from that data and other information which is in the possession of, or is likely to come into the possession of, the data controller.
12. The withheld information in this case comprises names of the Enforcement Officers who issued three specific penalty notices. The Commissioner accepts that a living individual can be identified from their name and is satisfied that the names which have been withheld clearly constitute personal data.

Would disclosure breach one of the data protection principles?

13. Having accepted that the information requested constitutes the personal data, of a living individual other than the applicant, the Commissioner must next consider whether disclosure would breach one of the data protection principles. He considers the first data protection principle to be most relevant in this case. The first data protection principle has two components:
- personal data shall be processed fairly and lawfully; and
 - personal data shall not be processed unless at least one of the conditions in DPA schedule 2 is met.

Would disclosure be fair?

14. In considering whether disclosure of the information requested would comply with the first data protection principle, the Commissioner has first considered whether disclosure would be fair. In assessing fairness, the Commissioner has considered the reasonable expectations of the individuals concerned, the nature of those expectations and the consequences of disclosure to the individual. He has then balanced against these the general principles of accountability, transparency as well as any legitimate interests which arise from the specific circumstances of the case.

Expectations of the individuals concerned

15. The Commissioner has considered the reasonable expectations of the individuals in terms of what would happen to their personal data. These

expectations can be shaped by factors such as the individuals' general expectation of privacy and also the purpose for which they provided their personal data.

16. When considering what information third parties should expect to have disclosed about them, the Commissioner considers that a distinction should be drawn as to whether the information relates to the third party's public or private life. The Commissioner's view is that information which relates to an individual's private life (i.e. their home, family, social life or finances) will deserve more protection than information about them acting in an official or work capacity (i.e. their public life). The Commissioner notes that the withheld information relates to the individuals in a professional capacity and there are no 'private' considerations
17. The Commissioner considers that employees of public authorities should be open to scrutiny and accountability and should expect to have some personal data about them released because their jobs are funded by the public purse. Whilst the individuals in question are not directly employed by the Council, they are employed by a third party who are contracted to carry out parking enforcement activities on behalf of the Council.
18. The Commissioner considers that the seniority of the individual acting in a public or official capacity should be taken into account when personal data about that person is being considered for disclosure under the FOIA. This is because the more senior a member of staff is, the more likely it is that they will be responsible for making influential policy decisions and/or decisions relating to the expenditure of public funds. In previous decision notices the Commissioner has stated that he considers that occupants of senior public posts are more likely to be exposed to greater levels of scrutiny and accountability and there should therefore be a greater expectation that some personal data may need to be disclosed in order to meet that need
19. In this case, the individuals in question are junior employees which are relatively low grade in the hierarchy of the contractor in question. The Council accept that the individuals have a public facing role in respect of issuing penalty notices. However, the Council pointed out that their role does not involve any accountability or responsibility for decision making either by the Council itself or the contractors acting on its behalf. The Council confirmed that it had not consulted the individuals about disclosure of their information.
20. The Commissioner accepts that it would be reasonable for the individuals concerned, who are junior employees, to have an expectation that their names would not be disclosed to the public at large.

Consequences of disclosure

21. The Council is of the view that disclosure of the names of the Enforcement Officers is an issue that can reasonably be considered as highly volatile and potentially distressing to the individuals concerned. Whilst the FOIA is applicant and motive blind, the Council is aware that the complainant has made an application to enable him to pursue the contractor concerned. The Council believe that the complainant has requested the names of the Enforcement Officers for the purpose of providing him with another avenue in which to bring action against the issuing of the penalty notices. The Council feel that the individuals may suffer distress and possible harassment in connection with issuing the penalty notices.
22. The Commissioner accepts that the issue of parking enforcement can be a sensitive and often contentious matter. Based on this, and the representations put forward by the Council, the Commissioner accepts that the individuals may suffer distress and possible harassment if their names were to be published in connection with matters involving the issuing of parking penalty notices.

General principles of accountability and transparency

23. Notwithstanding a data subject's reasonable expectations or any damage or distress caused to them by disclosure, it may still be fair to disclose the requested information if there is a more compelling public interest in disclosure.
24. The Council believe that the only legitimate interest in favour of disclosing the names in question would be to improve the transparency of the decision making process. However, it contends that the names of the Enforcement Officers do not have any material consideration on the decision process of issuing penalty notices. It argues that any legitimate interest in disclosure would be outweighed by the unwarranted harm and distress that the individuals would suffer by being associated with the issuing of the penalty notices in question, when they were merely carrying out their duties. The Council believes that disclosure would draw undue attention to the individuals.
25. The Commissioner has considered whether there is a legitimate interest in the public accessing the withheld information. The Commissioner notes that the complainant may have a personal interest in knowing the identities of the persons who issued him with penalty notices.
26. The Commissioner accepts that there is a general public interest in terms of the transparency and accountability of public sector organisations and specifically in accessing information about the way a

public authority manages parking enforcement activities. However, the Commissioner does not consider that any legitimate public interest extends to disclosure of the names of Enforcement Officers who issued specific penalty notices.

27. Furthermore, any person who has been issued with a penalty notice does not need the name of the Enforcement Officer who issued the notice in order to challenge or appeal the notice. The Commissioner is unable to conclude that disclosure of the withheld information is necessary to meet a legitimate public, rather than personal, interest.
28. Based on the above, the Commissioner is satisfied that the withheld information is personal data and that disclosure would breach the first data protection principle as it would be unfair to the individuals concerned. As the Commissioner has determined that it would be unfair to disclose the requested information, it has not been necessary to go on to consider whether disclosure is lawful or whether one of the conditions in Schedule 2 of the DPA is met. The Commissioner therefore upholds the Council's application of the exemption provided at section 40(2) of the FOIA.

Right of appeal

29. 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

30. 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.
31. 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

Andrew White
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