

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 24 February 2023

Public Authority: Local Government & Social Care Ombudsman

Address: 53-55 Butts Road
Coventry
CV1 3BH

Decision (including any steps ordered)

1. The complainant has requested information about a particular case officer. The above public authority ("the public authority") relied on section 40(2) of FOIA to withhold the information.
2. The Commissioner's decision is that the public authority is entitled to rely on section 40(2) of FOIA to withhold the information.
3. The Commissioner does not require further steps to be taken.

Request and response

4. On 18 November 2022, the complainant wrote to the public authority and requested information about a specific case officer, including the number of cases they had handled, whether each one had been decided for or against the complained-about organisation and how many service complaints they had had made about them.
5. The public authority responded on 5 December 2022. It relied on section 40(2) of FOIA to withhold the information – a position it upheld following an internal review.

Reasons for decision

6. Section 40(2) of FOIA allows a public authority to withhold information, that is the personal data of someone other than the requester, if there is no lawful basis, under data protection law, for the information to be published.
7. The Commissioner is satisfied that the withheld information in this case clearly relates to the case officer in question and that the case officer was named in the request. The information is thus linked to an identifiable individual (the case officer) and is their personal data. It is incapable of anonymisation.
8. As the data subject does not appear to have consented to publication of their personal data, the Commissioner considers that the only lawful basis for publication would be if publication were necessary to satisfy a legitimate interest.
9. The Commissioner recognises that the withheld information in this case is capable of being used as a measure of the case officer's job performance. There is a legitimate interest in being assured that the public authority is making decisions fairly in general and that no individual case officer is showing undue preference to any particular party.
10. However, the Commissioner does not consider that publication is necessary to satisfy this interest. The public authority publishes its decisions (in anonymised form) which can then be scrutinised. It will have its own internal procedures for monitoring staff performance and, if the complainant is dissatisfied with how a particular case officer has dealt with a particular complaint, there are options available to him to challenge the service he has received – none of which require the publication of anyone's personal data.
11. Publication is therefore not the least intrusive means of satisfying the legitimate interest and is thus not necessary. It follows that there would be no lawful basis, under data protection law for this personal data to be published. Section 40(2) of FOIA is therefore engaged.

Right of appeal

12. 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

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

13. 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.
14. 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

Roger Cawthorne
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