

## **The Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 26 January 2024

**Public Authority:** Blackburn with Darwen Borough Council

**Address:** Town Hall  
Blackburn  
Lancashire  
BB1 7DY

#### **Decision (including any steps ordered)**

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1. The complainant has requested, from Blackburn with Darwen Borough Council (the Council), information about public health funerals from 2018 onwards, specifically the names and other information relating to the deceased people and their estates. The Council provided the complainant with a link to information it publishes online about public health funerals, and (at internal review stage) explained it holds information about two cases within scope of the request. However it withheld the requested names, dates of birth, last known addresses and estimated estate values, citing section 31 of FOIA (the law enforcement exemption) as its basis for doing so.
2. The Commissioner's decision is that the Council was correct to rely on section 31 of FOIA. The Commissioner doesn't require any further steps.

## Request and response

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3. On 11 May 2023, the complainant wrote to the Council and requested information in the following terms:

“I am writing to request information under [FOIA].

For the years: 2018, 2019, 2020, 2021, 2022 and 2023 to date:

1. Please supply the names for everyone whose estate was referred to the Duchy of Lancaster - via their lawyers [redacted].

2. If possible, for each name please supply the date of birth, date of death, last known address and estimate amount in the estate.

... I would like to receive this information in the form of an email reply.

... If any of this information is already in the public domain, please can you direct me to it ...”.

4. The Council responded on 7 June 2023. It said “the only information we disclose regarding Public Health Funerals can be found on our DataShare website” and provided a link. It said it doesn’t publish the names of the deceased people, their dates of birth, last known addresses and estimated estate values, as this information is exempt under section 31 of FOIA.
5. Following an internal review, the Council wrote to the complainant on 20 October 2023. It said the information held within scope of the request relates to two deceased people, within the 2021-2022 financial year. It explained that in both cases, after comprehensive searches to trace relatives, both deceased people were found to have no next of kin. Of the two cases, it said “[o]ne has already been referred to the Duchy and one is ongoing”. The Council ultimately upheld its original reliance on section 31 of FOIA to withhold the requested names, dates of birth, last known addresses and estimated estate values. It added a specific reference to section 31(1)(a) of FOIA (prevention or detection of crime).

## Scope of the case

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6. The complainant contacted the Commissioner on 20 October 2023 to complain about the way their request for information had been handled.
7. The complainant disagrees with the Council's refusal to disclose the withheld information.
8. They said other councils publish the names of people who have died intestate.
9. They said that if the names aren't published, "remaining family members may never know about their right to submit a claim".
10. They argued there's a difference between publishing information on a website and disclosing information by email to the complainant. They said "[i]n this case, releasing these names ... does not tally with the cited exemption" and the Council's position that disclosure could harm the prevention or detection of crime. The Commissioner's understanding of these comments is that the complainant considers their particular identity and motivation, and the proposed channel of disclosure (email), count against section 31 being engaged.
11. They also argued "there is a strong public interest in exploring whether the estates of people who have died are being properly processed".
12. The Commissioner considers that the scope of this case is to decide whether the Council was correct to cite section 31(1)(a) of FOIA to refuse disclosure of the names, dates of birth, last known addresses and estimated estate values in respect of the two cases it holds within scope of the request.
13. The Commissioner hasn't asked the Council for any submissions, or a copy of the withheld information. He considers that in this instance, he's able to make his decision without those things.

## Reasons for decision

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14. Section 31(1)(a) of FOIA provides that information is exempt if its disclosure would, or would be likely to, prejudice (harm) the prevention or detection of crime.

15. The exemption, if engaged, is subject to the public interest test.
16. The Commissioner directs readers to his previous decision notice in case IC-122236-J0Q4<sup>1</sup>.
17. The Council cited the same previous decision notice in its internal review response.
18. The decision notice in IC-122236-J0Q4 explains the relevant considerations when applying section 31(1)(a); and the circumstances of that case are so similar to those in the present case (the type of information being withheld, and the positions and arguments of the parties involved) that the Commissioner considers it's appropriate to refer readers to his reasoning in IC-122236-J0Q4, rather than repeat it at length here.
19. He does wish to add some remarks addressing the complainant's comments noted in paragraph 10 above and his stated understanding of them.
20. As his guidance for public authorities explains<sup>2</sup>, disclosure under FOIA is to the world at large, and:

"when you are considering an exemption with an associated prejudice test, that test should focus on the consequences of disclosing the information **to the wider public** ... The test is therefore not so much about the requester's identity and motivation, but rather the purposes for which the information is likely to be used if released into the public domain" (emphasis added).
21. The Commissioner also highlights to the complainant that whilst they asked the Council to disclose the requested information by email, the request also specifies the information was being requested **under FOIA**.

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<sup>1</sup> <https://ico.org.uk/media/action-weve-taken/decision-notices/2022/4021544/ic-122236-j0q4.pdf>

<sup>2</sup> [https://ico.org.uk/for-organisations/foi-eir-and-access-to-information/freedom-of-information-and-environmental-information-regulations/consideration-of-the-applicant-s-identity-or-motives/#What\\_happens\\_test](https://ico.org.uk/for-organisations/foi-eir-and-access-to-information/freedom-of-information-and-environmental-information-regulations/consideration-of-the-applicant-s-identity-or-motives/#What_happens_test)

22. A disclosure under FOIA by email to the complainant would still be considered a disclosure to the world.
23. The Commissioner therefore considers that the complainant's identity and motivation, and the fact that they requested disclosure by email, weren't relevant arguments for the complainant to make in challenging the engagement of section 31.
24. Finally, he also highlights that a search of the previous decision notices published on his website, using the search term 'public health funerals', returns a total of six decision notices<sup>3</sup> where the Commissioner has considered the application of section 31(1)(a) to withhold information about the deceased people involved. In all six cases, the Commissioner found that the public authorities were correct to rely on section 31(1)(a) of FOIA to refuse disclosure.
25. Given the above points, and the previous relevant decision notices he has highlighted (including IC-122236-J0Q4), the Commissioner's decision is that the Council was correct to rely on section 31 of FOIA to withhold the requested names, dates of birth, last known addresses and estimated estate values.

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<sup>3</sup> <https://ico.org.uk/media/action-weve-taken/decision-notices/2022/4021544/ic-122236-j0q4.pdf>

[https://ico.org.uk/media/action-weve-taken/decision-notices/2015/1560153/fs\\_50584673.pdf](https://ico.org.uk/media/action-weve-taken/decision-notices/2015/1560153/fs_50584673.pdf)

[https://ico.org.uk/media/action-weve-taken/decision-notices/2015/1560154/fs\\_50584848.pdf](https://ico.org.uk/media/action-weve-taken/decision-notices/2015/1560154/fs_50584848.pdf)

[https://ico.org.uk/media/action-weve-taken/decision-notices/2015/1560051/fs\\_50583220.pdf](https://ico.org.uk/media/action-weve-taken/decision-notices/2015/1560051/fs_50583220.pdf)

[https://ico.org.uk/media/action-weve-taken/decision-notices/2015/1433061/fs\\_50584670.pdf](https://ico.org.uk/media/action-weve-taken/decision-notices/2015/1433061/fs_50584670.pdf)

[https://ico.org.uk/media/action-weve-taken/decision-notices/2015/1433062/fs\\_50586033.pdf](https://ico.org.uk/media/action-weve-taken/decision-notices/2015/1433062/fs_50586033.pdf)

## 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 .....**

**Daniel Kennedy**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**