

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 6 August 2013

Public Authority: Bolton Council
Address: Bolton Town Hall
Bolton
BL1 1RU

Decision (including any steps ordered)

1. The complainant requested the full name of a Bolton Council (the Council) employee that he had spoken to. The Council refused to disclose this information and cited the exemption provided by section 40(2) (personal information) of the FOIA.
2. The Commissioner's decision is that the Council cited section 40(2) correctly and so it was not required to disclose this information.

Request and response

3. On 8 October 2012, the complainant wrote to Bolton Council and requested information in the following terms:
"Please provide the name of the person I spoke to today at the One Stop Shop".
4. The Council responded on 5 November 2012. It stated that the request was refused and cited the exemption provided by section 40(2) (personal information) of the FOIA.
5. The complainant responded on 5 November 2012 and requested an internal review. The Council responded on 30 November 2012 and stated that the refusal under section 40(2) was upheld.

Scope of the case

6. The complainant contacted the Commissioner's office on 31 January 2013. The complainant was specific that he believed that there was a legitimate public interest in the disclosure of the name he had requested.

Reasons for decision

Section 40

7. The Council cited the exemption provided by section 40(2) of the FOIA. This provides that information is exempt if it is the personal data of any individual other than the requester and if the disclosure of that personal data would be in breach of any of the data protection principles.
8. Covering first whether the information requested constitutes personal data, the request is for the name of an individual. Clearly that information would be the personal data of that individual.
9. Turning to whether disclosure of that personal data would be in breach of any of the data protection principles, the Commissioner has focussed here on the first data protection principle. The first principle requires that personal data be processed fairly and lawfully and the particular focus here is on whether disclosure would be, in general, fair to the data subject. In forming a view on whether disclosure would be fair, the Commissioner has taken into account the reasonable expectations of the data subject, the consequences of disclosure upon the data subject and whether there is legitimate public interest in the disclosure of the information in question.
10. On the issue of the reasonable expectations of the data subject, the Council has stated that its policy is that staff members in the position of the individual concerned are not required to disclose their full name. As staff are aware that this is the approach of the Council, the staff member in question in this case would hold an expectation that her full name would not be disclosed.
11. Furthermore, in this case the individual referred to in the request was asked whether she consented to the disclosure of her name. This individual responded confirming that she did not consent to this disclosure. Accordingly, this individual would hold a strong expectation that this information would not be disclosed.

12. As to the consequences of disclosure upon the data subject, having found that the data subject would hold a strong expectation of privacy in relation to this information, it follows from this that disclosure in contravention of this expectation would result in distress to this individual.
13. On the issue of whether there is any legitimate public interest in this information, the complainant would argue that there is on the basis that this would promote accountability of staff members whose salary is paid through public funds. He would also argue that public facing staff should be willing to provide their full name to members of the public to whom they are providing a service.
14. The view of the Commissioner, however, is that there is no legitimate public interest in the full name of a junior official. It is the case that the Council should be accountable for its use of public money. That accountability, however, would apply to the Council as a whole, rather than to an individual, junior official. It is also the case that there is clearly other information that would be more relevant than staff names to the purpose of demonstrating that the Council is providing value for money, such as, for example, performance information.
15. As to whether a public facing staff member should be willing to provide their full name to a member of the public, the Commissioner would not expect that a junior official should be required to go beyond the official policy of the Council.
16. In general, the Commissioner cannot see any legitimate public interest in favour of disclosure of the full name of a junior official. Having also found that disclosure would be against the reasonable expectation of the data subject and that disclosure despite that expectation would be likely to result in distress to the data subject, the conclusion of the Commissioner is that disclosure would be unfair and in breach of the first data protection principle. The exemption provided by section 40(2) is, therefore, engaged and the Council is not required to disclose this information.

Right of appeal

17. 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

18. 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.
19. 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

Jon Manners
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