

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 11 October 2022

Public Authority: Kings College London
Address: 5th Floor
James Clerk Maxwell Building
57 Waterloo Road
London
SE1 8WA

Decision (including any steps ordered)

1. The complainant made a request for information for all legal bills received by Kings College London (KCL) in respect of the complainant's case against it. KCL refused to confirm or deny whether the requested information was held under section 40(5A) FOIA as to do so would disclose whether or not the complainant was involved in legal action with KCL which would constitute their own personal data.
2. The Commissioner considers that KCL was correct to apply section 40(5A) FOIA in this case.
3. The Commissioner requires no steps to be taken.

Request and response

4. The complainant made the following information request to KCL on 10 February 2022:

"May I pls have copy of all legal bills the College received in respect of my case against It since 2018 and its aftermath till today."

5. On 11 March 2022 KCL responded to the request. It refused to confirm or deny whether it holds the requested information under section 40(5A) FOIA. This is because KCL considers that confirming or denying whether the requested information is held would constitute the disclosure of the complainant's own personal data.

6. On 28 April 2022 the complainant asked KCL to carry out an internal review. On 16 May 2022 KCL provided the complainant with the result of the review it had carried out, it upheld its application of section 40(5A) FOIA.

Scope of the case

7. The complainant contacted the Commissioner on 27 May 2022 to complain about the way their request for information had been handled.
8. The Commissioner considers the scope of his investigation to be to determine if KCL was correct to refuse to confirm or deny whether the requested information is held under section 40(5A) FOIA.

Reasons for decision

Section 40 – personal information

9. Section 40(5A) of FOIA provides that the duty to confirm or deny whether information is held does not arise in relation to information which constitutes personal data of which the applicant is the data subject.
10. Therefore, for KCL to be entitled to rely on section 40(5A) of FOIA to refuse to confirm or deny whether it holds information falling within the scope of the request, confirmation or denial would need to constitute the disclosure of the complainant's own personal data.

Would the confirmation or denial constitute the disclosure of the complainant's own personal data?

11. Section 3(2) of the DPA 2018 defines personal data as:- "any information relating to an identified or identifiable living individual".
12. The two main elements of personal data are that the information must relate to a living person and that the person must be identifiable.
13. Information will relate to a person if it is about them, linked to them, has biographical significance for them, is used to inform decisions affecting them or has them as its main focus.
14. In this case KCL has argued that the requested information relates to an identifiable living person – the complainant. Confirming or denying whether the requested information is held would disclose whether or not the complainant was involved in legal action with KCL.

15. The Commissioner is satisfied that if KCL confirmed whether or not it held the requested information this would result in the disclosure of the complainant's own personal data.
16. In this instance, the Commissioner has decided that KCL has demonstrated that the exemption at section 40(5A) FOIA applies to the requested 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: 0870 739 5836

Email: grc@Justice.gov.uk

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

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.....

Gemma Garvey
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF