

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 10 November 2022

Public Authority: Gambling Commission
Address: 4th Floor Victoria Square House
Birmingham
B2 4BP

Decision (including any steps ordered)

1. The complainant requested from the Gambling Commissioner (GC) information regarding the financial assessment of BetIndex. The GC provided the complainant with information relating to the request with personal information redacted, and cited section 40(2) (third party personal data) and section 31(2)(a) (law enforcement) of FOIA.
2. The Commissioner's decision is the GC was entitled to rely on section 40(2) of FOIA to the information redacted. Therefore, the Commissioner does not require the GC to take any steps as a result of this decision.

Request and response

3. The complainant had previously requested information regarding the financial assessment of BetIndex:

"In the blog post made by the Chief Executive of the Gambling Commission (link below), he asserted "At the detailed financial assessment in early 2020, BetIndex was able to cover the liabilities in bet dividends for at least 12 months (in cash holdings) and potentially for three years if it made significant reductions to its overheads."

<https://www.gamblingcommission.gov.uk/blog/post/football-index-your-questions-on-the-gambling-commissions-role-and>

I am requesting a copy of this financial assessment of BetIndex and all supporting documents."

4. On 30 April 2022 the complainant wrote to the GC and submitted a new request for information in the following terms:

"My new request: Please provide any and all audio or video records of this assessment."
5. On 18 May 2022 the GC responded and confirmed that it does hold information falling within the scope of the request. The GC said the information is exempt under section 40(2) (third party personal data) and it also applied section 31(2)(a) and (c) (law enforcement) of FOIA.
6. On the same day the complainant asked for an internal review.
7. On 30 June 2022 the GC provided its internal review response and maintained its original position to withhold the information requested (the audio recording) under the exemptions cited. However, the GC made available to the complainant the recording of the financial assessment (emailed a link to access the video file) but removed the audio recording. The GC also redacted any personal information that was visible within the recording.

Reasons for decision

Section 40 – personal information

8. Section 40(2) of FOIA provides that information is exempt from disclosure if it is the personal data of an individual other than the requester, and disclosure would contravene a data protection principle.
9. In this case, the complainant requested information which includes all audio or video records of the financial assessment of BetIndex. The GC explained to the complainant, that the recording contains information relating to identifiable individuals that would constitute personal data. It said "the personal information contained within the recording includes reference to the participants by name and pictures of some of the staff which are displayed automatically when using Microsoft Teams as a meeting platform."
10. The Commissioner is satisfied that the redacted information is personal data of identifiable individuals. They can be identified within the recording as it includes reference to the participants by name and pictures of some of the members of staff.

11. The Commissioner acknowledges the complainant's legitimate interest in this information that would be met through disclosing the information. The Commissioner also notes the complainant's view is the public interest favours disclosure, and the complainant believes that there is an overwhelming public interest in disclosure due to the loss of 124 million pounds of customer funds.
12. The Commissioner considers that the complainant is pursuing a legitimate interest and disclosure of the requested information is necessary to meet that legitimate interest. However, he is of the view that the individuals with their names and pictures contained within the recording, have a reasonable expectation that their names and their pictures which would identify them, would be withheld.
13. The complainant has been provided with redacted/edited information (video file of the financial assessment) by the GC. Therefore, the Commissioner recognises that the GC has attempted to be fair and transparent by disclosing some information relating to the request. He deems that the complainant's legitimate interest has been met to an adequate degree through the information which the GC disclosed to him.

The Commissioner's conclusion

14. The Commissioner has determined that there is insufficient legitimate interest to outweigh the fundamental rights and freedoms of the individuals concerned. He therefore considers disclosure of the redacted information which consists of personal information within the recording, would be unlawful as it would contravene a data protection principle; that is set out under Article 5(1)(a) of the UK General Data Protection Regulation.
15. The Commissioner concludes that the GC was entitled to withhold the redacted information under section 40(2) of FOIA. As the exemption is engaged, the Commissioner is not required to consider the GC's reliance on section 31(2)(a) of FOIA.

Right of appeal

16. 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

17. 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.
18. 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

Phillip Angell
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