

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 17 February 2023

Public Authority: Leeds City Council

Address: PO Box 837

Leeds

LS1 9PZ

Decision (including any steps ordered)

1. The complainant requested information from Leeds City Council ('the public authority'). The Commissioner's decision is that the public authority is entitled to rely on section 40(2) of FOIA to withhold all of the requested information.
2. The Commissioner does not require the public authority to take any steps.

Request and response

3. On 18 March 2022, the complainant made the following request for information to the public authority:

"I should be grateful for an FOI Request to know the names of the members of staff from the Waste Management Department at Leeds City Council, collected the Waste Bins at [address redacted] on the mornings of 26 January 2022, 14 February 2022, 9 February 2022, 2 February 2022 and 2 March 2022?"

4. On 13 April 2022 the complainant made a further request for the following information:

"I should be grateful if you would supply a freedom of information request, which denotes the name of the member of staff who emptied

the bins for my father at [address redacted], on the morning of 13 April 2022: at the soonest opportunity.”

5. The public authority responded to both requests together on 19 April 2022. It refused to provide all of the requested information citing section 40(2) (personal information) of FOIA as its basis for doing so. It maintained this position following an internal review.

Reasons for decision

Section 40 - personal information

6. This reasoning covers whether the public authority was correct to apply section 40(2) of FOIA to the request.¹
7. Section 40(2) says that information is exempt information if it is the personal data of another individual and disclosure would contravene one of the data protection principles. The two main elements of personal data are that the information must relate to a living person and that the person must be identifiable.
8. In this case, the Commissioner is satisfied that the withheld information is personal data. This is because the request is for names of specific members of staff from the public authority's Waste Management Department. The Commissioner is satisfied that the requested information relates to living individuals and will directly identify them.
9. In the case of a FOIA request, the personal data is processed when it is disclosed in response to the request. This means that the information can only be disclosed if to do so would be lawful, fair and transparent.
10. When considering whether the disclosure of personal information would be lawful, the Commissioner must consider whether there is a legitimate interest in disclosing the information, whether disclosure of the information is necessary and whether these interests override the rights and freedoms of the individuals whose personal information it is.
11. The Commissioner considers that the complainant is pursuing a legitimate interest but that disclosure of the information through FOIA is not necessary to satisfy it.

¹ <https://www.legislation.gov.uk/ukpga/2000/36/section/40>

12. From the evidence available to the Commissioner, it is clear that the complainant has a personal interest in the requested information. He has concerns about the assisted bin collection service provided to his father, and damage he believed was caused to his father's property by refuse workers. The complainant has advised the public authority that he requires the requested information in order to seek legal advice for prospective legal proceedings regarding this matter.
13. The Commissioner does not consider that disclosure of the withheld information is necessary to meet the complainant's private interests in the information. There are other formal channels through which the complainant can pursue his concerns. Furthermore, the public authority has already advised the complainant that any prospective legal claim in relation to this matter would be against the public authority as an organisation and not against individual refuse workers. The requested information is, therefore, not necessary to bring a legal claim against the public authority.
14. The Commissioner does not consider that there are any broader legitimate interests in the specific information requested in this case.
15. The Commissioner's decision in this case is that disclosure is not necessary to meet the legitimate interest in disclosure. The Commissioner therefore considers that disclosing the requested information would be unlawful as it would contravene a data protection principle; that set out under Article 5(1)(a) of the UK General Data Protection Regulation. The public authority was therefore correct to apply section 40(2) of FOIA to this request.

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: 0203 936 8963
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

Michael Lea
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