

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 28 February 2023

Public Authority: High Peak Borough Council
Address: Buxton Town Hall
Market Place
Buxton
SK17 6EL

Decision (including any steps ordered)

1. The complainant requested information from High Peak Borough 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 some of the requested information.
2. The Commissioner does not require the public authority to take any steps.

Request and response

3. On 16 May 2022, the complainant made the following request for information to the public authority:

"I would like copies of any and all documents and policies pertaining to the operation of the HPBC customer services department (aka 'telephone jockeys' aka 'firewall wallahs' aka 'gate keepers'). Including but not limited to Job descriptions for telephone operators, their managers and any directors in their chain of command, governing and or management documents, Standard Operating Procedures or their equivalent, training aids, best practice guides, policies etc. Basically anything and

everything that these people work towards in their day to day duties as PUBLIC SERVANTS.

[...]

I would also like copies of the HPBC telephone directory and any organisation charts showing the chain of command for public servants therein. It will be interesting to see all the same nepotistic family names of nothing else.”

4. The public authority responded on 15 June 2022. It provided some of the requested information, but refused to provide the internal telephone directory citing section 40(2) (personal information) of FOIA. The complainant was dissatisfied with the decision not to disclose the internal telephone directory and requested an internal review on this basis. However, the public authority maintained its position.

Reasons for decision

Section 40 - personal information

5. This reasoning covers whether the public authority was correct to apply section 40(2) of FOIA to the request.¹
6. 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.
7. In this case, the Commissioner is satisfied that the withheld information (the internal telephone directory) is personal data. This is because the information clearly relates to and identifies living individuals, as it consists of live telephone numbers for contacting specific individuals.
8. 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.
9. When considering whether the disclosure of personal information would be lawful, the Commissioner must consider whether there is a legitimate

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

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.

10. The Commissioner considers that the complainant is pursuing a legitimate interest but that disclosure of the withheld information through FOIA is not necessary to satisfy it.
11. In this case the complainant told the Commissioner that they sought this information in order to better navigate and access public services. They argued that the current process of contacting the public authority's switchboard was ineffective and believed that it was used deliberately as a barrier to service.
12. The public authority argued:

“Disclosure is not necessary in pursuit of the legitimate interests described above. The Council has a communications strategy which requires customers to call the switchboard before being directed to appropriate service areas. The reason for that is to ensure customer's legitimate interests are most adequately and efficiently administered and to ensure front line officers have optimum time available to conduct their duties.”
13. While there is a clear legitimate interest in ensuring that residents are able to contact the public authority, the existing process is sufficient to meet this interest and disclosure of the public authority's internal telephone directory to the world at large is therefore not necessary.
14. The Commissioner's decision in this case is that disclosure of the withheld information is not necessary to meet the legitimate interests 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

15. 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

16. 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.
17. 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
Team Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF