

15 December 2023

IC-275784-W3F6

Request

In summary, you asked us for information about a specific named individual. The name of the individual has not been included for the purposes of this FOI response, in order to protect this individual's personal data.

You asked us:

"Under the freedom of information act I would like to enquire as to how many, if any, complaints have been made against [name of individual] Consultant Obstetrician and Gynaecologist."

We have handled your request under the Freedom of Information Act 2000 (the FOIA).

Our response

We neither confirm nor deny that we hold the information you have requested. Section 40(2) FOIA states:

"Any information to which a request for information relates is also exempt information if—

- (a) it constitutes personal data which does not fall within subsection (1), and*
- (b) the first, second or third condition below is satisfied."*

Section 40(3A), which sets out one of the three conditions, states:

"(3A) The first condition is that the disclosure of the information to a member of the public otherwise than under this Act—

- (a) would contravene any of the data protection principles"*

Finally, section 40(5B)(a) states:

"The duty to confirm or deny does not arise in relation to other information if or to the extent that any of the following applies—

*(a) giving a member of the public the confirmation or denial that would have to be given to comply with section 1(1)(a)—
(i) would (apart from this Act) contravene any of the data protection principles”*

You have requested information held about a specific named individual. This information, if held, would constitute the personal data of this individual as it relates to an identified natural person. Section 40(2) of FOIA exempts disclosure of the personal data of others, subject to conditions.

Section 40(3A)(a) details one of these conditions. In my view, this condition would be met in this case because disclosure of the information you have requested, if held at all, would break the first principle of data protection – that personal data is processed lawfully, fairly and in a transparent manner. Therefore, the information you have requested, if held, would be exempt from disclosure.

I also consider confirmation or denial would itself contravene the data protection principles because it would reveal personal data. Therefore, our response to your request is we can neither confirm nor deny that we hold the information you have requested.

This concludes our response to your request.

Further advice and assistance

You have requested information about complaints raised against an individual. Please be advised that individuals are unlikely to constitute data controllers or public authorities in their own right for the purposes of an information rights complaint to the ICO, except in certain cases (such as sole traders, domestic CCTV and similar).

As organisations in their capacity as data controllers or public authorities have ultimate responsibility for the data they hold under the information rights legislation, this means that the ICO usually considers complaints to be raised against organisations, rather than against individual employees.

While we are unable to confirm or deny complaints levelled at a specific individual, we do proactively publish [data sets of complaints about the organisations that we regulate](#) on our website. These data sets are published in searchable CSV format and include the name of the organisation complained about. We would recommend reviewing these data sets if you are seeking further information about information rights concerns relating to a specific organisation.

Next steps

You can ask us to review our response. Please let us know in writing if you want us to carry out a review. Please do so within 40 working days.

You can read a copy of our full [review procedure](#) on our website.

If we perform a review but you are still dissatisfied, you can complain to the ICO as regulator of the FOIA. This complaint will be handled just like a complaint made to the ICO about any other public authority.

You can [raise a complaint](#) through our website.

Your information

Our [privacy notice](#) explains what we do with the personal data you provide to us, and sets out [your rights](#). Our [Retention and Disposal Policy](#) details how long we keep information.

Yours sincerely



Information Access Team
Strategic Planning and Transformation
Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF
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