

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 6 July 2023

Public Authority: Business Services Organisation
Address: 2 Franklin Street
Belfast
BT2 8DQ

Decision (including any steps ordered)

1. The complainant submitted a request to the Business Services Organisation (BSO) for information relating to the fees paid to two named barristers.
2. The Commissioner's decision is that BSO was correct to withhold the requested information under section 40(2), with reliance on section 40(3)(a) of FOIA.
3. The Commissioner does not require any steps as a result of this decision notice.

Request and response

4. On 31 March 2023, the complainant wrote to BSO and requested information in the following terms:

 "Under FOI law, I request the following.

 What was the total fee paid to [redacted] for services within my case.

 What are the fees paid to date for [redacted] and what will her fee be per month/per hearing/however she charges to include all fees to date and till the final hearing".
5. A response was provided on 12 April 2023 in which BSO confirmed that the information was being withheld under section 40(2), with reliance on section 40(3)(a) of FOIA.
6. Upon receiving this response, the complainant requested an internal review on 12 April 2023 and on 23 May 2023, BSO provided its internal review response in which it maintained its original position.

Background

7. The Business Services Organisation has been established to provide a broad range of regional business support functions and specialist professional services to the health and social care sector in Northern Ireland.

Reasons for decision

Section 40(2)-personal information

8. Section 40(2) of FOIA provides an exemption for information that is the personal data of an individual other than the requester and where the disclosure of that personal data would be in breach of any of the data protection principles.
9. Section 3(2) of the Data Protection Act 2018 (DPA) defines personal data as:

 "any information relating to an identified or identifiable living individual."
10. The two main elements of personal data are that the information must relate to a living person and that the person must be identifiable. The

Commissioner is therefore satisfied that the request would fall within the definition of 'personal data' in section 3(2) of the DPA.

11. In decision notice IC-202129-C6F2¹, the Commissioner found that BSO was correct to rely on section 40(2) of FOIA to withhold the information. As the present request is also for information regarding specific barristers and their fees, the Commissioner is relying on the same reasons set out in paragraphs 13-18 in the above decision notice.
12. Based on the above factors, the Commissioner has determined that there is, like the previous request, insufficient legitimate interest to outweigh the data subject's fundamental rights and freedoms. The Commissioner therefore considers that there is no Article 6 basis for processing and so the disclosure of the information would not be lawful.
13. The Commissioner finds that section 40(2) of FOIA is engaged in respect of the withheld information.

¹ <https://ico.org.uk/media/action-weve-taken/decision-notice/2023/4025634/ic-202129-c6f2.pdf>

Right of appeal

14. 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

15. 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.
16. 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

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