

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 8 February 2024

Public Authority: Social Work England
Address: 1 North Bank
Blonk Street
Sheffield
S3 8JY

Decision (including any steps ordered)

1. The complainant has requested information regarding the closure of complaints raised by them. Social Work England relied on 40(2) of FOIA (third party personal information) to withhold the information.
2. The Commissioner's decision is that the requested information is exempt from disclosure under section 40(1) of FOIA (complainant's own personal data).
3. The Commissioner has also determined that Social Work England breached section 10(1) and 17(1) of FOIA as it didn't comply with section 1(1) or issue a refusal notice within the statutory timeframe.
4. The Commissioner does not require further steps to be taken.

Request and response

5. On 30 June 2023, the complainant wrote to Social Work England and requested information in the following terms:

"Once again, I would request the specific Clause (for each case), within the 'Just and Fair Disposal Policy', that was considered appropriate to dismiss and close the numerous complaints in question.

For the avoidance of doubt, I am not requesting personal information. I am requesting specific information as to how the policy was used and applied.”

6. Social Work England responded on 13 August 2023. It provided some information within the scope of the request and advised the remaining was exempt from disclosure under section 40(2) of FOIA.
7. Following an internal review Social Work England wrote to the complainant on 5 September 2023. It stated that it was upholding its original position.

Scope of the case

8. The complainant contacted the Commissioner on 12 September 2023 to complain about the way their request for information had been handled.
9. The Commissioner understands that the request concerns non-FOIA complaints which the complainant personally raised with Social Work England. The complainant is seeking to ascertain on what basis these complaints were not investigated and is seeking to ascertain the specific grounds for these decisions, and the “reasoning and rationale **that led** to [Social Work England]’s decision to close the cases”, ie to close their personal complaints.
10. Social Work England explained to the Commissioner that there is no information held regarding a specific clause within the Just and Fair Disposal Policy that would be considered appropriate to dismiss and close a number of complaints.
11. The request asks for “...specific information as to how the policy was used and applied...”, Social Work England advised that it did hold information in regards to this part of the request. It advised the Commissioner that any information is exempt from disclosure under section 40(2) of FOIA.
12. Although Social Work England has relied on section 40(2), as the regulator responsible for data protection matters, the Commissioner has used his discretion and initially decided to consider whether or not the complainant is seeking access to their own personal information.

Reasons for decision

Section 40 - personal information

13. Section 40(1) of FOIA provides that any information to which a request for information relates is exempt information if it constitutes personal data of which the requester is the data subject.
14. Section 3(2) of the DPA defines personal data as:
"any information relating to an identified or identifiable living individual".
15. The two main elements of personal data are that the information must relate to a living person and that the person must be identifiable.
16. An identifiable living individual is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of the individual.
17. Information will relate to a person if it is about them, linked to them, has biographical significance for them, is used to inform decisions affecting them or has them as its main focus.
18. In the circumstances of this case, having viewed the withheld information, the Commissioner is satisfied that it is the complainant's personal data. This is because it directly relates to personal concerns which were brought to Social Work England by the complainant. The requested information is therefore only available by searching for information which relates to the complainant personally, the starting point for any such searches being the complainant's name and those personal concerns; it is not simply the disclosure of any policy or methodology which may be held, rather it is how any such policy or methodology has been applied in the complainants' own personal circumstances.
19. The Commissioner therefore considers the request to be an approach by the complainant to obtain their own personal information from Social Work England. Therefore, it is exempt from disclosure under section 40(1) of FOIA. This is an absolute exemption and is not subject to the public interest test.
20. As the Commissioner has determined that the requested information is exempt under section 40(1), he does not need to go onto consider Social Work England's application of section 40(2). However, it is noted that the content will also hold information about third parties.

Other matters

21. Under section 1(1) of FOIA a public authority must (a) confirm whether it holds information that's been requested and (b) communicate the information to the applicant if it's held and isn't exempt information.
22. Under section 10(1) a public authority must comply with section 1(1) promptly and within 20 working days following the date of receipt of the request.
23. And under section 17(1) a public authority must issue a refusal notice in respect of any exempt information within the same timescale.
24. In this case, the complainant submitted their request on 30 June 2023. Social Work England responded to the request on 13 August 2023, which is outside the required 20 working days. The Commissioner has recorded this delay for monitoring purposes.

Right of appeal

25. 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

26. 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.
27. 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

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