

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 11 January 2023

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

### **Decision (including any steps ordered)**

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1. The complainant has requested information from the Business Services Organisation ("BSO") regarding how much a specific barrister and a specific solicitor have been paid for representing a particular Trust. BSO advised that some information is not held, and that the remaining information is being withheld under section 40(2) of FOIA – personal information.
2. The Commissioner's decision is that the BSO is entitled to rely on section 40(2) (personal information) of FOIA to refuse to provide the requested information. He also finds that, on the balance of probabilities, BSO does not hold the remaining information within the scope of the request.
3. The Commissioner does not require the BSO to take any steps as a result of this decision notice.

### **Request and response**

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4. On 17 August 2022, the complainant wrote to the BSO and requested information in the following terms:  
  
"How much to date has WHSCT paid [named person] and [named person] for their work representing WHSCT. Please outline in full a) the amount which has been paid tax payers, public money to \*Solicitor

[named person] \*Barrister [named persons] both representing WHSCT, since the start of their involvement in the case.

b) which budget that money comes from, is it WHSCT's budget or BSO's budget?

5. The BSO responded on 20 September 2022. It stated that BSO provides legal advice and representation to the Trust and that this is done on a block contract that covers the provision of all legal services; the Trust is not charged for individual cases and, therefore, there are no separate charges for the case highlighted. BSO also explained that the remaining information in relation to the solicitor and the barrister is personal information and is therefore being withheld under section 40 of FOIA.
6. Following an internal review, the BSO wrote to the complainant on 10 November 2022. It upheld its original position.

### **Scope of the case**

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7. The complainant contacted the Commissioner on 11 November 2022 to complain about the way their request for information had been handled.
8. The Commissioner considers that the scope of this case is to determine if the BSO is entitled to rely on section 40(2) of FOIA – personal information and if, on the balance of probabilities, it does not hold the remaining information.

### **Reasons for decision**

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#### **Section 1 – information not held**

9. Under section 1(1) of FOIA anyone who requests information from a public authority is entitled under subsection (a) to be told if the authority holds the information and, under subsection (b), to have the information communicated to them if it is held and is not exempt information.
10. The complainant considers that the BSO holds information regarding the payment of a specific solicitor and a specific barrister, regarding a particular case. This is in relation to section b of the complainant's request.
11. The BSO has explained that the Trust (who the solicitor and barrister represented in the case) pay a block fee, which covers all legal services.

There are no additional payments for individual cases and, as such, the amount cannot be attributed to a single case.

12. The Commissioner has considered the BSO's position and accepts its reasons for not holding the requested information. Therefore, his decision is that, on the balance of probabilities, the BSO does not hold the information.

### **Section 40(2)- personal information**

13. 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.
14. In this case, the complainant has requested information concerning the payment of two named individuals (a solicitor and a barrister). The Commissioner is satisfied that the requested information is the data subject's personal data and that they can be identified, as they are named in the request and the information relates to them.
15. The Commissioner appreciates that for personal reasons, the complainant has a legitimate interest in this information, which would be met by disclosure of the information.
16. However, it is reasonable to expect that both of the named individuals would reasonably expect that their personal data would not be disclosed to the world at large under FOIA. Disclosure would likely cause those individuals harm and distress.
17. The Commissioner's view is that when considering what information individuals should expect to have disclosed about them, a distinction should be drawn as to whether the information relates to the individual's public or private life. In this case the information relates to those individual's income.
18. Based on the above factors, the Commissioner has determined that there is insufficient legitimate interest to outweigh the data subject's fundamental rights and freedoms. 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.

## Right of appeal

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19. 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](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

20. 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.
21. 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**