

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 17 January 2025

Public Authority: Health and Care Professions Council

Address: Park House
184 -186 Kennington Park Road
London
SE11 4BU

Decision (including any steps ordered)

1. The complainant has requested information from the Health and Care Professions Council (the Council), regarding a registered practitioner's home address. The Council refused the request and explained that the information requested related to a third party under section 40(2) – personal information.
2. The Commissioner's decision is that the Council was entitled to withhold the information under section 40(2) of FOIA.
3. The Commissioner does not require any steps as a result of this decision.

Request and response

4. On 9 June and 5 July 2024, the complainant requested information in the following terms:

"As a registered paramedic, we imagine (name redacted) is bound by certain professional ethics that are inconsistent with her approach to date to simply ignore and avoid this claim.

Are you able to confirm either (name redacted) address, insurance details, or such other information that would facilitate our being able to establish contact with her in a way she is unable to avoid I ignore? And can you tell us if she is currently employed as a Paramedic and if so by whom."

5. The Council responded on 31 July 2024. It explained that information in scope of the request pertaining to a third-party individual was being withheld under section 40(2) of FOIA.
6. Following an internal review on 29 August 2024, the Council gave a further explanation of its response and upheld its original position for third-party personal data.

Scope of the case

7. The complainant contacted the Commissioner on 30 August 2024, to complain about the way their request for information had been handled.
8. The Commissioner considers that the scope of the investigation is to determine if the Council correctly withheld the information under section 40(2) of FOIA.

Reasons for decision

Section 40(2) – third party personal data

9. Section 40(2) of FOIA provides that information is exempt from disclosure if it is the personal data of an individual other than the requester and where one of the conditions listed in section 40(3A)(3B) or 40(4A) is satisfied.
10. In this case the relevant condition is contained in section 40(3A)(a) . This applies where the disclosure of the information to any member of the public would contravene any of the principles relating to the processing of personal data ("the DP principles"), as set out in Article 5 of the UK General Data Protection Regulation ("UK GDPR").

11. The first step for the Commissioner is to determine whether the withheld information constitutes personal data as defined by the Data Protection Act 2018 ("DPA"). If it is not personal data, then section 40 of the FOIA cannot apply.
12. Secondly, if the Commissioner is satisfied that the requested information is personal data, he must establish whether disclosure of that data would breach any of the DP principles.

Is the information personal data?

13. Section 3(2) of the DPA defines personal data as:

"any information relating to an identified or identifiable living individual."

14. The two main elements of personal data are that the information must relate to a living person and that the person must be identifiable.
15. Having considered the nature of the withheld information, personal address details of a third-party individual, the Commissioner is satisfied that the information relates to an individual. This information therefore falls within the definition of 'personal data' in section 3(2) of the DPA.
16. The complainant has argued that the information should be released into the public domain given the individual concerned is a registered paramedic and therefore releasing the information would be within their expectations and not contravene data protection principles, and stated: "Failure to disclose this information prevents the proper administration of justice and undermines confidence in the profession and the governing body (hcpc). The administration of justice must override an individual's right to privacy in these circumstances."
17. The Commissioner is aware that disclosure under FOIA is considered as being made to the world at large, rather than to the requester only, and this includes to those individuals who may have a particular interest in the information (and additional knowledge of the specific circumstances of those involved) which is not shared by the wider public.
18. The fact that information constitutes the personal data of an identifiable living individual does not automatically exclude it from disclosure under the FOIA. The second element of the test is to determine whether disclosure would contravene any of the DP principles.
19. The most relevant DP principle in this case is principle (a).

Legitimate interests

20. In considering any legitimate interest(s) in the disclosure of the requested information under FOIA, the Commissioner recognises that a wide range of interests may be legitimate interests. They can be the requester's own interests or the interests of third parties, and commercial interests as well as wider societal benefits. These interests can include broad general principles of accountability and transparency, as well as case-specific interests. However, if the requester is pursuing a purely private concern unrelated to any broader public interest, unrestricted disclosure to the general public is unlikely to be proportionate.
21. The requester wishes to know the individual's home address in order to be able to pursue a legal claim against the third-party individual. The Commissioner therefore accepts that the complainant has a legitimate interest in the information.

Is disclosure necessary?

22. 'Necessary' means more than desirable but less than indispensable or absolute necessity and involves consideration of alternative measures which may make disclosure of the requested information unnecessary. Disclosure under FOIA must therefore be the least intrusive means of achieving the legitimate aim in question.
23. The Commissioner is aware that disclosure under FOIA is disclosure to the world at large. It is the equivalent of the Council publishing the information on its website. When considering the necessity test, he is not therefore considering whether providing the information to the requestor is necessary to achieve the legitimate interest, but whether it is necessary to publish the information.
24. The Commissioner notes that the Council has demonstrated that the information is regarding a specific individual's home address as this is detail required by the Council upon registration. He is therefore satisfied that disclosure of the withheld information is necessary to meet the requester's legitimate interests.

Balance between legitimate interest and the data subject's interests or fundamental rights and freedoms

25. It is necessary to balance the legitimate interests in disclosure against the individual's interests or fundamental rights and freedoms. In doing so, it is necessary to consider the impact of disclosure. For example, if the individual would not reasonably expect that the information would be disclosed to the public under FOIA in response to the request, or if such disclosure would cause unjustified harm, their interests or rights are likely to override legitimate interests in disclosure.

26. In considering this balancing test, the Commissioner has taken into account the following factors:
- the potential harm or distress that disclosure may cause;
 - whether the information is already in the public domain;
 - whether the information is already known to some individuals;
 - whether the individuals expressed concern to the disclosure; and
 - the reasonable expectations of the individuals.
27. In the Commissioner's view, a key issue is whether the individuals concerned have a reasonable expectation that their information will not be disclosed. These expectations can be shaped by factors such as an individual's general expectation of privacy, whether the information relates to an employee in their professional role or to them as individuals, and the purpose for which they provided their personal data.
28. It is also important to consider whether disclosure would be likely to result in unwarranted damage or distress to the individual mentioned.
29. The Commissioner considers that the individual involved has a strong and reasonable expectation that personal information about them will remain confidential and indeed has been promised a level of confidentiality when engaging with the Council.
30. The Commissioner accepts that there is an expectation that the personal information of an individual registrant will remain private. The Commissioner has seen no indication that the data has been made public by the individual.
31. Based on the above factors, the Commissioner has determined that there is insufficient legitimate interest to outweigh the fundamental rights and freedoms of the individual involved. The Commissioner therefore considers that there is no Article 6 basis for processing and so the disclosure of the information would not be lawful.
32. Given the above, the Commissioner is satisfied that the Council is entitled to withhold information in scope of the request under section 40(2) of FOIA.

Right of appeal

33. 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

34. 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.
35. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Deirdre Collins
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
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