

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 19 April 2016

Public Authority: London Borough of Islington

Address: Town Hall
Upper Street
London
N1 2UD

Decision (including any steps ordered)

1. The complainant has requested information from the London Borough of Islington ("the Council") relating to section 146 notices that have been served on leaseholders for the period 01 April 2013 – 31 March 2014.
2. The Commissioner's decision is that the Council has correctly withheld some of the requested information under section 40 of the FOIA.
3. The Commissioner requires the Council to take no steps.

Request and response

4. On 13 October 2015 the complainant wrote to the Council and requested information in the following terms:

"1. Please provide me with copies of all s.146 notices served on leaseholders for the period 01 April 2013 – 31 March 2014. That should be doable in the 18 hour period.

2. Please do not redact identifying details or sums in dispute".

5. The Council responded on 24 November 2015. It provided the complainant with a redacted form of the requested information. The Council redacted the name of individual, the property address, the date of the leasehold and the signature of the member of staff at the Council who signed the notice. This information was withheld under section 40.

6. Following an internal review the Council maintained its previous decision.

Scope of the case

7. The complainant contacted the Commissioner on 17 January 2016 to complain about the way her request for information had been handled.
8. During the Commissioner's investigation the Council withdrew its application of section 40 to the dates of the leaseholds. It subsequently provided this information to the complainant.
9. The Commissioner has therefore had to consider whether the Council correctly applied section 40 to withhold the names of the individuals, the address of the property's and the signatures under section 40.

Reasons for decision

10. Section 40 of the FOIA specifies that the personal information of a third party must not be disclosed if to do so would contravene any of the data protection principles.
11. Taking into account his dual role as regulator of both the FOIA and the Data Protection Act 1998 (the "DPA") the Commissioner has considered whether the Council was correct to withhold the names, addresses and signatures on the notices under section 40.

Is the withheld information personal data?

12. Personal data is defined by section 1 of the DPA as:

"...data which relate to a living individual who can be identified–

(a) from those data, or

(b) from those data and other information which is in the possession of, or is likely to come into the possession of, the data controller, and includes any expression of opinion about the individual and any indication of the data controller or any person in respect of the individual..."

13. In order for the exemption to apply the information being requested must constitute personal data as defined by section 1 of the DPA.

14. Some of the withheld information relates specifically to an individual and their address. It is evident to the Commissioner that this information is personal data in accordance with section 1 of the DPA.
15. The Commissioner also considers that a signature relates to a living individual who can be identified from that information. The Commissioner is therefore satisfied that this information is personal data in accordance with section 1 of the DPA.

Would disclosure breach the data protection principles?

16. The data protection principles are set out in schedule 1 of the DPA. The Commissioner considers that the first data protection principle is most relevant in this case. The first principle states that personal data should only be disclosed in fair and lawful circumstances, the conditions of which are set out in schedule 2 of the DPA.
17. The Commissioner's considerations below have focused on the issues of fairness in relation to the first principle. In considering fairness, the Commissioner finds it useful to balance the reasonable expectations of the data subject and the potential consequences of the disclosure against the legitimate public interest in disclosing the information.

Reasonable expectations of the data subject

18. When considering whether a disclosure of personal data is fair, it is important to take account of whether the disclosure would be within the reasonable expectations of the data subject. However, their expectations do not necessarily determine the issue of whether the disclosure would be fair. Public authorities need to decide objectively what would be a reasonable expectation in the circumstances.
19. The Commissioner considers that there is a reasonable expectation that individuals who have had a section 146 issued against their property would not expect their name and address to be disclosed to the wider public in response to an information request.
20. In relation to the signatures, the Commissioner considers that there is a reasonable expectation that an individual would not expect their signature to be released to the general public. Signatures are vulnerable to misuse and releasing this information could help facilitate identity theft.

The consequences of disclosure

21. The Commissioner considers that disclosing the withheld information would cause damage and distress to the individuals concerned.

The legitimate public interest

22. The Commissioner considers that the public's legitimate interests must be weighed against the prejudices to the rights, freedoms or legitimate interests of the individual concerned. The Commissioner has considered whether there is a legitimate interest in the public (as opposed to the private interests of the complainant) accessing the withheld information.
23. The Commissioner acknowledges that the complainant has an interest in the requested information. However the Commissioner must consider the legitimate public interest in the requested information rather than the interests of the requester.
24. The Commissioner does not consider that there is a legitimate public interest in the withheld information that outweighs the damage and distress that would be caused by disclosure and the unwarranted intrusion into the private life of the individuals.
25. The Commissioner is therefore satisfied that the Council correctly applied section 40(2) to withhold some of the requested information.

Right of appeal

26. 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: 0300 1234504

Fax: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

27. 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.
28. 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

Rachael Cragg
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF