

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 14 September 2016

Public Authority: The Victoria & Albert Museum
Address: Cromwell Road
South Kensington
London
SW7 2RL

Decision (including any steps ordered)

1. The complainant has requested information regarding an IT audit report from the Victoria & Albert Museum ("the V & A"). The V & A disclosed the majority of the requested information to the complainant, however it refused to disclose the remainder, citing section 31(1)(a) as a basis for non-disclosure.
2. The Commissioner's decision is that the V & A has correctly applied section 31(1)(a) of the FOIA to the complainant's request.
3. The Commissioner therefore requires no steps to be taken.
4. The public authority must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Act and may be dealt with as a contempt of court.

Request and response

5. On 15 January 2016 the complainant requested information from the V & A in the following terms:-

"Can you provide me with the findings of the IT audit report which was commissioned August/September 2013."

6. The V & A responded to the complainant on 13 February 2016. It provided the requested information, however it had redacted some information from this and cited sections 31 and 40(2) as a basis for these redactions.
7. The complainant then sought an internal review of this decision, the result of which was provided to him on 15 March 2016. The reviewer had reinstated some redactions, however stated that some still applied, as section 31 of FOIA was still applicable to some sections of the requested information ("the withheld information").

Scope of the case

8. The complainant contacted the Commissioner on 8 April 2016 to complain about the way his request for information had been handled. He asked the Commissioner in particular to consider the V & A's remaining redactions of information which they stated was exempt under section 31 of FOIA. He did not ask the Commissioner to consider the redactions made under section 40(2) of the FOIA.
9. The Commissioner has considered the V & A's handling of the complainant's request.
10. The V & A did not specify to the complainant which subsection of section 31 of FOIA it was applying to the withheld information. However, it later clarified to the Commissioner that it was applying section 31(1) (a) of FOIA to the withheld information.

Reasons for decision

11. Section 31(1)(a) of the FOIA states that information which is not exempt information by virtue of section 30 is exempt information if its disclosure under the FOIA would, or would be likely to, prejudice the prevention or detection of crime.
12. Section 31 is a prejudice-based exemption. In order to be engaged, the following criteria must be met:
 - the actual harm which the public authority alleges would, or would be likely to, occur if the withheld information was disclosed has to relate to the applicable interests within the relevant exemption;
 - the public authority must be able to demonstrate that some causal relationship exists between the potential disclosure of the information being withheld and the prejudice which the exemption

is designed to protect. Furthermore, the resultant prejudice which is alleged must be real, actual or of substance; and

- it is necessary to establish whether the level of likelihood of prejudice being relied upon by the public authority is met – i.e. disclosure 'would be likely' to result in prejudice or disclosure or 'would' result in prejudice.
13. Covering first whether this exemption is engaged, the Commissioner has considered whether prejudice *would be likely* to result, rather than whether it *would* result. For the Commissioner to accept that prejudice would be likely to result, there must be a real and significant chance of that outcome occurring, rather than it being a remote possibility.
 14. The relevant applicable interests cited in this exemption are the prevention or detection of crime. The Commissioner accepts that the arguments made by the V & A set out below address the prejudice at section 31(1)(a) in relation to the detection of crime.
 15. When considering the second point, the Commissioner must be satisfied that the nature of the prejudice is "real, actual or of substance" and not trivial or insignificant. She must also be satisfied that some causal relationship exists between the potential disclosure and the stated prejudice.
 16. The arguments put forward by the V & A concerned the requirement to maintain a level of confidentiality around its IT provisions with regard to data security.
 17. The V & A's opinion is that disclosure of the withheld information would be likely to prejudice the prevention of criminal acts in relation to the V&A's computer systems and information, such as hacking, theft of data, misuse of confidential data, or the disruption of the V&A's operations.
 18. The complainant argues that the withheld information is about the safe storage of data and that disclosure would not affect the security of the systems. However, the V & A has informed the Commissioner that data security risks identified in the internal audit report have been mitigated in the two and half years since the report was issued, but not necessarily eliminated. The V & A believes that, in the wrong hands, the names of applications regarded by the auditors as 'high risk' and the specifics of firewall and antivirus provision, all contained in the withheld information, might enable the V&A's computer systems to be hacked. Similarly, if the V & A were to disclose the withheld information, thereby identifying the location of its data backup and the name of its backup service provider this information, in the wrong

hands, would increase the risk of malicious and/or criminal interference with the V&A's data security.

19. The Commissioner notes first that the V & A's arguments against disclosure are relevant to section 31(1)(a); disclosing information which might enable hacking into the V & A's security systems would amount to prejudice to the prevention of crime. The Commissioner has next considered whether there is a real and significant likelihood of that prejudice occurring as a result of disclosure of the information in question.
20. The issue considered by the Commissioner is whether there is a causal link between disclosure of the withheld information and the likelihood of prejudice argued by the V & A, in other words whether disclosure of that information would make potential prejudice and threat to the V & A's ability to protect its systems from criminal interference more likely. The complainant argues that the withheld information is about the safe storage of data and that disclosure would not affect the security of the systems. However, the V & A has informed the Commissioner that such disclosure would be likely to affect that security as, in the wrong hands, it would increase the risk of criminal and/or malicious interference with those systems.
21. The Commissioner's view is that it is highly likely to be the case that there are those who would seek to maliciously and/or criminally interfere with the V & A's data security systems in order to gain access to confidential data or to disrupt the V & A's operations. Disclosure of the withheld information would be likely to facilitate this and would therefore present a real risk to the security of the V & A's systems and therefore would be likely to prejudice the prevention of crime. Therefore, there is a causal link between the disclosure of the withheld information and the nature of the prejudice which is likely to occur. The Commissioner therefore considers that section 31(1)(a) of the FOIA is engaged in relation to the withheld information. Since section 31 is a qualified exemption, subject to a public interest test, the Commissioner has gone on to consider the public interest arguments for and against disclosure of the withheld information.

Public interest arguments in favour of disclosing the withheld information

22. The V & A is aware of the presumption of openness and transparency running through the FOIA, and that public authorities should be accountable to the public for their actions and decision-making processes, as public funds are involved.

23. The V & A also considers that there is a public interest in knowing that it manages data responsibly and securely and that internal audits are carried out and their recommendations acted upon.

Public interest factors in favour of maintaining the exemption

24. The V & A believes that the public interest arguments in favour of withholding the small amount of information which has been redacted are compelling. There is a strong public interest in the highest standards of information compliance being maintained in all public sector organisations; and in particular the secure maintenance of personal and other sensitive data. The V & A considers that disclosure of information which would be likely to prejudice the maintenance of its IT security is clearly contrary to the public interest.

Balance of the public interest arguments

25. The Commissioner considers that there is a strong public interest in openness and transparency of public authorities. There would be a significant public interest in knowing that the V & A manages data responsibly and securely, particularly since it holds a great deal of confidential and valuable data. However, the V & A considers that it has met these public interests by disclosing the majority of the internal audit report to the complainant and indeed into the public domain.
26. The V & A does not believe that there is any compelling public interest in knowing the names of potentially vulnerable software applications in use at the V&A, or the specifics of its current business critical data security arrangements, which would outweigh the public interest in the V & A's secure maintenance of sensitive and confidential data. It informs the Commissioner that, in time, the sensitivity of this information will diminish, as applications are replaced and security arrangements renewed and improved, and the release of the report without redactions will be possible. The Commissioner accepts that there is a strong public interest in maintaining the security of confidential data and not increasing the vulnerability of the security systems to criminal activity.
27. The Commissioner has carefully considered all public interest arguments both in favour of disclosure and of maintaining the exemption. She considers that it is vitally important to protect the security of the V & A's IT systems against criminal or malicious attack and that there is an extremely compelling public interest in doing so. This is not outweighed by the arguments in favour of openness and transparency in public sector organisations, particularly as the

Commissioner considers that this public interest has been met by the disclosure of the vast majority of the internal audit report.

28. Therefore, the Commissioner considers that the public interest in maintaining the exemption in all the circumstances of this case outweighs that in disclosure of the withheld information.

Right of appeal

29. 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

30. 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.
31. 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

Deirdre Collins
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Information Commissioner's Office
Wycliffe House
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