



**FIRST-TIER TRIBUNAL
GENERAL REGULATORY CHAMBER
INFORMATION RIGHTS**

Tribunal Reference: EA/2013/0163
Appellant: Glenda Rodriguez-Noza
Respondent: The Information Commissioner
Judge: NJ Warren

DECISION NOTICE

1. On 3 May 2012 the Nursing and Midwifery Council (NMC) received a complaint from Mrs Rodriguez-Noza about the behaviour of six former colleagues in the period 2006-2009. On 9 May 2012 the NMC wrote to Mrs Rodriguez-Noza indicating that they would not be investigating the matter any further. On 21 November 2012 Ms Rodriguez-Noza wrote to the NMC asking for a copy of the comments or responses made by all of the former colleagues named in her complaint. Her request seems to have been prompted by an NMC procedural rule which relates to a later stage in investigations. The NMC considered that release of information or even a statement as to whether information was held, if done under the Freedom of Information Act (FOIA) which amounts to public disclosure, would be a breach of the Data Protection Principles and thus would infringe the former colleagues' rights to privacy. They therefore refused to confirm or deny whether they held the information. See Section 40(5)(b)(i) FOIA.
2. Mrs Rodriguez-Noza unsuccessfully complained to the Information Commissioner's Office (ICO) and now appeals to the Tribunal. The ICO has applied for the appeal to be struck out and the Tribunal has received a reply and further observations from Mrs Rodriguez-Noza.
3. I have carefully considered the papers. In my judgement, the submission from the ICO in respect of the use of Section 40(5)(b)(i) FOIA in this case is unanswerable

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and it is inevitable that the appeal must fail. I would be doing no favours to the appellant and an injustice to the ICO and the NMC (whom the appellant wants to be joined as a party to the proceedings) if I allowed the appeal to continue. It is right to bring it to an end now.

4. For these reasons I strike out the appeal under Regulation 8(3)(c) GRC procedural Rules.

NJ Warren

Chamber President

Dated 1 November 2013