

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 21 November 2022

Public Authority: Islington Council
Address: 222 Upper Street
London
N1 1XR

Decision (including any steps ordered)

1. The complainant has requested Islington Council ('the Council') to disclose information relating to the bin shed/lumber store on Finsbury estate EC1. The Council disclosed some the information but refused to disclose the remainder citing section 43 of FOIA. During the Commissioner's investigation further information was disclosed to the complainant and the Council changed its position to rely on section 40.
2. The Commissioner's decision is that the Council is entitled to rely on section 40 of FOIA for the remaining withheld information. He therefore does not require any further action to be taken.

Request and response

3. On 26 May 2022, the complainant wrote to the Council and requested information in the following terms:

"I would like ALL information relating to the Bin shed/lumber store on Finsbury estate EC1. The change of use, the renting of this store to a private business tenant, any planning permission applications and agreements for alteration or change of use, considerations or approvals. How this tenant was found, the contract with the tenant, rent charged , and the permitted use of this space."

4. The Council responded on 28 June 2022. It explained how the tenant was found, when the lease was granted and for how long and how no planning applications had been submitted to date.
5. The complainant requested an internal review on 28 June 2022. She was dissatisfied that the Council had provided no documentation at all.
6. The Council carried out an internal review and notified the complainant of its findings on 26 July 2022. It refused to disclose the contractual arrangements between the leaseholder and the Council under section 43 of FOIA.

Scope of the case

7. The complainant contacted the Commissioner on 4 July 2022 to complain about the way her request for information had been handled. The complainant believes details of the lease should be disclosed.
8. During the Commissioner's investigation the Council disclosed a redacted copy of the lease to the complainant. It withheld the identity of the leaseholder and the rent agreed under section 40 of FOIA.
9. The Commissioner agrees section 40 of FOIA applies to the remaining withheld information. The following section will explain why.

Reasons for decision

10. 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.
11. Information relating to the identity of the private individual and the rent agreed between them and the Council is information which identifies that individual and relates to them and their personal finances. It is therefore the personal data of the private individual.
12. The Commissioner notes from the submissions he has received from the Council that the bin shed has been unused for over 10 years and there may be a legitimate public interest in the local community understanding more clearly what the lease was granted for and for how much. However, he does not see any wider legitimate public interest in this information and the information the Council has provided in response to this information request goes a considerable way to meeting the limited interests identified.

13. The private individual entered into a private agreement with the Council; one which the Commissioner understands has not progressed past the initial agreement itself. The bin shed facility remains unused. The individual will hold no expectation that their identity and the rent they agreed would be disclosed to the world at large and, considering that the facility remains the same today and the business need for which it was initially secured has not gone ahead, it is accepted that disclosure of the information would cause the private individual distress and upset. It relates to the individual's private business arrangements and disclosure would be an unwarranted intrusion into their personal circumstances.
14. Based on the above factors, the Commissioner has determined that there is insufficient legitimate interest to outweigh the private individual'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

15. 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

16. 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.
17. 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

Samantha Coward
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
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SK9 5AF