

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 23 February 2023

Public Authority: Oxford City Council
Address: Town Hall
St Aldate's
Oxford
OX1 1BX

Decision (including any steps ordered)

1. The complainant requested information about staff redundancies. Oxford City Council (the "council") disclosed some information and withheld information relating to job roles under the exemption for personal data (section 40(2)).
2. The Commissioner's decision is that the council is entitled to rely on section 40(2) (personal information) of the FOIA to refuse to provide the requested information.
3. The Commissioner does not require the council to take any steps.

Request and response

4. On 2 August 2022, the complainant made the following request for information to Oxford City Council (the "council"):

"Number of Oxford City Council and Oxford Direct Services employees made redundant each year from 2018 to the present?

Average redundancy payment per employee each year?

The title of each role that was made redundant each year?

Were any of the roles recruited to following a redundancy? If so, what roles?"
5. The council provided the requested information but refused to disclose the job titles of employees made redundant, citing the exemption at section 40(2).

Reasons for decision

6. Section 40(2) provides an exemption for information that is the personal data of an individual other than the requester and where the disclosure of that personal data would be in breach of any of the data protection principles.
7. Section 3(2) of the Data Protection Act 2018 defines personal data as:

"any information relating to an identified or identifiable living individual."
8. The two main elements of personal data are that the information must relate to a living person and that the person must be identifiable.
9. The council has argued that releasing job titles would not only lead to the disclosure of the individuals' identities due to the unique nature of roles being deleted (or the low numbers of people in those roles), but also reveal information about their specific redundancy compensation packages.
10. The council considers that individuals made redundant would have a strong and reasonable expectation that information detailing any redundancy payments they received would remain confidential to them and their employer. The council has stated that it is standard practice to make payments under a settlement agreement which include details of payments to be made and agreements in relation to confidentiality, restricting disclosure of details within the agreement.

11. The Commissioner is satisfied that the requested information both relates to and would identify individuals associated with specific job roles. He therefore considers that the requested information falls within the definition of 'personal data' in section 3(2) of the DPA.
12. The next step is to consider whether disclosure of this personal data would be in breach of any of the data protection principles. The Commissioner has focused here on principle (a), which states:

"Personal data shall be processed lawfully, fairly and in a transparent manner in relation to the data subject."
13. In the case of a FOIA request, the personal data is processed when it is disclosed in response to the request. This means that the information can only be disclosed if to do so would be lawful, fair and transparent.
14. When considering whether the disclosure of personal information would be lawful, the Commissioner must consider whether there is a legitimate interest in disclosing the information, whether disclosure of the information is necessary, and whether these interests override the rights and freedoms of the individuals whose personal information it is.
15. The Commissioner considers that in this case, the complainant is pursuing a legitimate interest as the request relates to former public employees, and that disclosure of the requested information is necessary to meet that legitimate interest.
16. However, the Commissioner considers that the former employees have a strong and reasonable expectation that information detailing any redundancy payments they received would remain confidential to them and their employer. The Commissioner also notes that the job roles in question are not senior positions and that, with diminished decision making power and responsibility, there is less public interest in information being made public. The Commissioner also considers that, in this case, the public interest in accountability and transparency has been met by the council's disclosure of other information identified in the request.
17. The Commissioner has determined that there is insufficient legitimate interest to outweigh the fundamental rights and freedoms of the former employees. Therefore, he considers that there is no legal basis for the council to disclose the requested information and to do so would be in breach of principle (a). This is an approach that the Commissioner has

taken in previous cases which relate to request for comparable information, and he considers that the conclusions reached in these cases are transposable to this case¹.

18. The Commissioner's decision is that the council is entitled to rely on section 40(2) of the FOIA to refuse to provide the requested information. The Commissioner requires no further action to be taken by the council in relation to this request.

¹ See, for example: <https://ico.org.uk/media/action-weve-taken/decision-notices/2023/4024125/ic-180806-c6s7.pdf>; <https://ico.org.uk/media/action-weve-taken/decision-notices/2018/2259868/fs50714060.pdf>; https://ico.org.uk/media/action-weve-taken/decision-notices/2016/1624655/fs_50604412.pdf

Right of appeal

19. 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

20. 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.
21. 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

Christopher Williams
Senior Case Officer
Information Commissioner's Office
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Water Lane
Wilmslow
Cheshire
SK9 5AF