

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 13 May 2024

**Public Authority:** Imperial War Museum  
**Address:** Lambeth Road  
London SE1 6HZ

#### **Decision (including any steps ordered)**

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1. The Commissioner's decision is that the Imperial War Museum has correctly applied section 40(2) of FOIA to requested information about Katherine Moloney's attendance at an event. That information is Katherine Moloney's and staff members' personal data and disclosing it wouldn't be lawful.
2. It's not necessary for the Imperial War Museum to take any corrective steps.

#### **Request and response**

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3. Katherine Moloney was due to be a speaker at an Imperial War Museum (IWM) event on 4 November 2023 – 'IWM In Conversation: Women In Aviation'.
4. The complainant made the following information request to IWM on 30 October 2023:
  - "1. Is Katherine Moloney being remunerated for her attendance at the event in any way
  2. If the answer that Katherine Moloney is being remunerated is yes, what is the amount
  3. Has Katherine been given any "free" tickets for the event to give to friends, family etc?

4. Was Katherine invited to the event? or did she request attendance to speak?
  5. Whom at the IWM made the decision to have Katherine speaking at the event?
  6. Please provide the business case or justification for having Katherine Moloney speak at this event
  7. Please provide a copy of all email communication between IWM and Katherine Moloney regarding her attendance to this event
  8. Please provide a copy of all internal email & instant messaging communications between IWM staff regarding Katherine attending this event.
  9. Did anyone at the IWM express a concern or disagreement regarding Katherine speaking at the event
  10. Has Katherine made any requests regarding the event? such as seating position, topics to be avoided, particular questions to ask etc.
  11. Have there been any external complaints regarding her attendance?
  12. If there have been external complaints, how many and on what grounds?"
5. The IWM addressed question 4 and its final position was that the remaining information was exempt from disclosure under section 40(2) of FOIA.
  6. The Commissioner advised the complainant that he was satisfied that section 40(2) was engaged and suggested that they withdraw their complaint. However, the complainant preferred to conclude their case formally, through a decision notice.

## **Reasons for decision**

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7. This reasoning covers IWM's reliance on section 40(2) of FOIA to withhold the information the complainant has requested.
8. Section 40(2) of FOIA says that information is exempt information if it's the personal data of another individual and disclosure would contravene one of the data protection principles. The most relevant principle is under Article 5(1)(a) of the UK General Data Protection Regulation (UK GDPR). This states that  
  
"Personal data shall be processed lawfully, fairly and in a transparent manner in relation to the data subject."
9. In this case, the complainant has requested information about Katherine Moloney appearance as a speaker at an IWM event. The Commissioner is satisfied, first, that the requested information is the personal data of Katherine Moloney and, in respect of part 5, of a member/members of

IWM staff. They – the data subjects - can be identified from the requested information and the information relates to them.

10. The Commissioner has gone on to consider whether disclosing the personal data would be lawful. This involves considering three 'tests': the legitimate interest test, the necessity test, and the balancing test.
11. The complainant has an interest in Katherine Moloney and that's a legitimate interest for them to have. There's also a legitimate interest in a public authority such as the IWM demonstrating it's open and transparent. To address these interests, it would be necessary to disclose the personal data.
12. Regarding question 5 and the name(s) of IWM staff, IWM has told the Commissioner that the decision to invite Katherine Moloney was made by junior members of its Commercial Events team.
13. IWM explained that it makes decisions about releasing staff names on a case-by-case basis, but its general approach is for staff below Head of Department level to have a greater expectation of privacy in relation to FOI requests, as they are usually not responsible for major decisions. In this case, nominating speakers for an event of this kind was not seen as a major decision, as the speakers at the event were external speakers and not representing IWM in any way. Releasing names would therefore affect staff privacy and confidence to make decisions while not serving any real accountability purpose. IWM also advised that it had noted the tone and nature of the request and considered that staff could be targeted unfairly as a result of their names being released.
14. IWM confirmed it was content for the name of the team – Commercial Events – to be released.
15. That IWM's Commercial Events team made the decision provides sufficient transparency about that decision, in the Commissioner's view. He's satisfied that the specific members of staff involved in the decision-making in question, as less senior members of staff, would have the reasonable expectation that their names wouldn't be disclosed under FOIA. Disclosing their names in the circumstances of this case would therefore be likely to cause them harm or distress.
16. Regarding Katherine Moloney, although the information concerns Katherine Moloney in her professional rather than private capacity, the Commissioner considers that she would still reasonably expect that her personal data wouldn't be disclosed to the world at large under FOIA. Disclosing the personal data – which includes whether she was remunerated and, if so, how much whether any concerns were raised about her attendance, and any requests she may have made associated with her attendance – would, in the circumstances of this case, therefore cause Katherine Moloney harm or distress.

17. It appears to the Commissioner that the complainant is pursuing a purely private concern unrelated to any broader public interest – because there's minimal broader public interest in the information they've requested. Unrestricted disclosure of Katherine Moloney's personal data – and specific staff members' names - to the general public is therefore not proportionate.
18. Based on the above factors, the Commissioner has determined that there is insufficient legitimate interest to outweigh the data subjects' fundamental rights and freedoms. The Commissioner therefore considers that disclosing the requested information would be unlawful as it would contravene the data protection principle set out under Article 5(1)(a) of the UK GDPR.

## **Right of appeal**

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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](mailto:grc@justice.gov.uk)  
Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://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.

**Cressida Woodall**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**