

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 20 November 2024

Public Authority: Civil Aviation Authority
Address: Aviation House
Gatwick Road South
West Sussex RH6 0YR

Decision (including any steps ordered)

1. The Commissioner's decision is that the requested information about a named centre's pilot training is exempt from disclosure under section 43(2) of FOIA, which concerns commercial interests.
2. It's not necessary for the Civil Aviation Authority to take any corrective steps.

Request and response

3. On 26 March 2024, the complainant wrote to the Civil Aviation Authority (CAA) and requested:
"application (declaration(s)) and all associated correspondence including training programmes relating to the approval of [redacted] to carry out pilot training."
4. CAA provided a response on 12 April 2024. It withheld the information under sections 40(2) and 43 of FOIA. Section 40(2) concerns personal data.
5. The complainant requested an internal review on 22 April 2024. They first requested a list of the documents that CAA was withholding. The complainant disputed that the information they'd requested could be

used to undermine the operational concerns of another company. They also considered that CAA's view that the information could be used vexatiously to cause financial and reparational loss was "so completely far-fetched as to be non-existent and fanciful."

6. Finally, the complainant noted that some personal data was already in the public domain, but they said that other personal data could be redacted.
7. In its internal review, CAA detailed the information it's withholding. It maintained its position that the information is exempt from disclosure under sections 40(2) and 43(2) of FOIA. It also advised that some information that's already published was therefore exempt under section 21, which concerns information that's already accessible to the applicant.

Reasons for decision

8. Based on their complaint to the Commissioner, this reasoning is focussed on CAA's application of section 43(2) of FOIA to the information the complainant has requested.
9. Section 43(2) of FOIA states that information is exempt if its disclosure would, or would be likely to, prejudice the commercial interests of any person, including the public authority holding it.
10. The request is for information associated with the approval of a centre ('the centre') to carry out pilot training.
11. CAA has explained that releasing the withheld information would be likely harm the commercial interests of a third-party; namely, the centre. It says in its submission to the Commissioner that it has contacted the centre about the request, at the time of the request and more recently. The centre has confirmed that it considers that disclosing the information would be likely to prejudice its commercial interests.
12. In its submission CAA has reproduced its correspondence with the centre and provided a background and context. The Commissioner doesn't intend to discuss the issues in detail, but it includes the possibility of legal action.
13. The centre says that disclosing its training programmes or the programmes it's following would be likely to cause significant commercial harm to its business. This is because it would provide the centre's competitors with an insight into how the centre runs its business, or the centre's competitors could use those same

programmes. This would give the centre's competitors a commercial advantage.

14. The centre has also explained how disclosing information, including declaration dates, could prejudice its commercial interests – in the context of possible legal action and tendering exercises.
15. The Commissioner is satisfied, first, that the prejudice CAA envisages relates to commercial interests – the centre's. Second the Commissioner accepts that a causal link exists between disclosure and commercial prejudice; those summarised above, and which CAA has provided more detail about in its submission to the Commissioner.
16. Finally, the Commissioner will accept CAA's position that the envisioned prejudice would be likely to happen, rather than would happen.
17. The Commissioner's decision is therefore that CAA is entitled to apply section 43(2) to the withheld information, and he will go on to consider the associated public interest test.

Public interest test

18. CAA has acknowledged that FOIA has an underlying element of openness and transparency.
19. But CAA has provided the following arguments against disclosing the information:
 - CAA has contacted the centre, and the centre has confirmed that it considers that its commercial interests would be likely to be prejudiced if the information were to be disclosed.
 - If the information is released under FOIA "inherent contextual information contained within the documents – such as dates, addresses and planned equipment – could be used by competitors to undermine the operational concerns of the named company."
 - Information is published on CAA's website about organisations and their permitted training. The information to which CAA has applied section 43(2) goes beyond this publicly available information. Disclosure would place into the public domain sufficient contextual information which in the hands of skilled, determined actors could be used to vexatiously to cause financial and reparational loss to the named company (the centre).

20. The Commissioner has found that disclosing the requested information would be likely to prejudice a third party's commercial interests.
21. The Commissioner acknowledges the complainant's interest in that information but, in his view, that's a private interest. The Commissioner doesn't consider that the information has sufficient wider public interest to justify possibly causing the envisioned prejudice. He's satisfied that the public interest in how pilots are trained is met to an adequate degree by information that is proactively published and that there's greater public interest in the centre being able to operate effectively.
22. The Commissioner's decision is therefore that section 43(2) of FOIA is engaged and the public interest favours maintaining this exemption.

Right of appeal

23. 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

24. 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.
25. 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