

Chief Executive

2 Franklin Street
BELFAST
BT2 8DQ

Tel: 028 9536 3863

Email: FOI.BSO@hscni.net

20th September 2022

BY EMAIL

Our Ref: FOI 1789

Dear [REDACTED],

Your request for information was received on 17th August 2022 and was dealt with under the terms of the Freedom of Information Act 2000. Please be advised that the Business Services Organisation (BSO) has now reviewed your request for information in relation to budget and costs, regarding an employment tribunal case involving the Western Health & Social Care Trust (WHST).

Please accept my apologies for the delay in furnishing you with a formal response. Please find below the responses to your request:

Re the Employment Tribunal case [REDACTED]

How much to date has WHST paid [REDACTED] **for their work representing WHST.**

Please outline in full

a) the amount which has been paid tax payers, public money to

***Solicitor** [REDACTED]

***Barrister** [REDACTED]

both representing WHST, since the start of their involvement in the case.



b) which budget that money comes from , is it WHSCT's budget or BSO's budget?

The BSO Directorate of Legal Services (DLS) provides legal advice and representation to the WHSCT. This is on the basis of a block contract, which is a global figure that covers the provision of all legal services; the Trust is not charged for individual cases. Therefore, there was no separate charge from the BSO for the case you have highlighted.

In relation to Counsel's fee, this request involves information relating to a third party. The BSO deems this information to be exempt from disclosure on the grounds of Section 40 (3A) (a) (personal information) of the Freedom of Information Act 2000.

This exemption is absolute and no public interest test is required. The identification of named individuals or information that would identify them constitutes personal data as defined in the Data Protection Act 2018 (DPA) and disclosing it would breach the fair processing principle set out in the DPA.

I hope that the information provided assists you. If you are dissatisfied in any way with the handling of your request, you have the right to request a review. You should do this as soon as possible or in any case within two months of the date of issue of this letter, as the BSO, along with all other public authorities are not obliged to accept internal review requests after this period has lapsed.

In the event that you require a review to be undertaken, you can do so by writing to

Information Governance Manager,
2 Franklin Street,
Belfast,
BT2 8DQ

If, following an internal review, carried out by an independent decision making panel, you remain dissatisfied in any way with the handling of the request, you may make a complaint under Section 50 of the Freedom of Information Act, to the Information Commissioner's Office and ask that they investigate whether the BSO has complied with the terms of the Freedom of Information Act.

You can contact Information Commissioner at:

Website: www.ico.org.uk
Phone: 0303 123 1113
Email: casework@ico.org.uk
Post: Information Commissioner's Office
3rd Floor, 14 Cromac Place
Belfast
BT7 2JB

In most circumstances the Information Commissioner will not investigate a complaint unless an internal review procedure has been carried out. However the Commissioner has the option to investigate the matter at his discretion.

Yours Sincerely,

A handwritten signature in cursive script that reads "Karen Bailey".

Karen Bailey
Chief Executive, BSO

10th November 2022

BY EMAIL



Our Ref: FOI 1789

Dear 

We are writing to you in response to your request for a review of the above referenced Freedom of Information request, received by the Business Services Organisation on 23rd October 2022.

We can advise that a review panel was convened on 9th November 2022 to review the BSO's initial response to this FOI. This review panel consisted of Ms Julie Erskine (Chair, BSO) and Ms Karen Bryson (Director of Finance, BSO).

The panel reviewed your Freedom of Information request, along with the formal response issued to you.

Having done so, the review panel has concluded that the response in respect of para a) was appropriate and accurate.

In respect of fees paid to BSO's Directorate of Legal Services, it is the case that the Trust is not charged for individual cases and therefore there was no separate charge for the case you refer to. The review panel therefore upholds this aspect of the response.

As regards Counsel's fee, the review panel has upheld that this information is considered to be personal information relating to a third party, namely the individual barrister. As such, this information is considered to be exempt from disclosure under Section 40 (3A) (a) of the Freedom of Information Act.

The review panel has noted part b) of your request.



The review panel can confirm that, since WHSCT is the client in respect of legal services provided by DLS, the Trust pays for such legal services on the basis of the block contract arrangements referred to in the original FOI response.

We hope that the outcome of this review panel has been of assistance to you.

If, following this internal review, carried out by an independent decision making panel, you remain dissatisfied in any way with the handling of the request, you may make a complaint under Section 50 of the Freedom of Information Act, to the Information Commissioner's Office and ask that they investigate whether the BSO has complied with the terms of the Freedom of Information Act.

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Website: www.ico.org.uk
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BT7 2JB

In most circumstances the Information Commissioner will not investigate a complaint unless an internal review procedure has been carried out. However the Commissioner has the option to investigate the matter at his discretion.

Yours Sincerely,



Ms Julie Erskine
BSO Chair

Ms Karen Bryson
Interim Director of Operations, BSO

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 11 January 2023

Public Authority: Business Services Organisation
Address: 2 Franklin Street
Belfast
BT2 8DQ

Complainant: [REDACTED]

Address: [REDACTED]

Decision (including any steps ordered)

1. The complainant has requested information from the Business Services Organisation ("BSO") regarding how much a specific barrister and a specific solicitor have been paid for representing a particular Trust. BSO advised that some information is not held, and that the remaining information is being withheld under section 40(2) of FOIA – personal information.
2. The Commissioner's decision is that the BSO is entitled to rely on section 40(2) (personal information) of FOIA to refuse to provide the requested information. He also finds that, on the balance of probabilities, BSO does not hold the remaining information within the scope of the request.
3. The Commissioner does not require the BSO to take any steps as a result of this decision notice.

Request and response

4. On 17 August 2022, the complainant wrote to the BSO and requested information in the following terms:

"How much to date has WHSCT paid [named person] and [named person] for their work representing WHSCT. Please outline in full a) the amount which has been paid tax payers, public money to *Solicitor

[named person] *Barrister [named persons] both representing WHSCT, since the start of their involvement in the case.

b) which budget that money comes from, is it WHSCT's budget or BSO's budget?

5. The BSO responded on 20 September 2022. It stated that BSO provides legal advice and representation to the Trust and that this is done on a block contract that covers the provision of all legal services; the Trust is not charged for individual cases and, therefore, there are no separate charges for the case highlighted. BSO also explained that the remaining information in relation to the solicitor and the barrister is personal information and is therefore being withheld under section 40 of FOIA.
6. Following an internal review, the BSO wrote to the complainant on 10 November 2022. It upheld its original position.

Scope of the case

7. The complainant contacted the Commissioner on 11 November 2022 to complain about the way their request for information had been handled.
8. The Commissioner considers that the scope of this case is to determine if the BSO is entitled to rely on section 40(2) of FOIA – personal information and if, on the balance of probabilities, it does not hold the remaining information.

Reasons for decision

Section 1 – information not held

9. Under section 1(1) of FOIA anyone who requests information from a public authority is entitled under subsection (a) to be told if the authority holds the information and, under subsection (b), to have the information communicated to them if it is held and is not exempt information.
10. The complainant considers that the BSO holds information regarding the payment of a specific solicitor and a specific barrister, regarding a particular case. This is in relation to section b of the complainant's request.
11. The BSO has explained that the Trust (who the solicitor and barrister represented in the case) pay a block fee, which covers all legal services.

There are no additional payments for individual cases and, as such, the amount cannot be attributed to a single case.

12. The Commissioner has considered the BSO's position and accepts its reasons for not holding the requested information. Therefore, his decision is that, on the balance of probabilities, the BSO does not hold the information.

Section 40(2)- personal information

13. 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.
14. In this case, the complainant has requested information concerning the payment of two named individuals (a solicitor and a barrister). The Commissioner is satisfied that the requested information is the data subject's personal data and that they can be identified, as they are named in the request and the information relates to them.
15. The Commissioner appreciates that for personal reasons, the complainant has a legitimate interest in this information, which would be met by disclosure of the information.
16. However, it is reasonable to expect that both of the named individuals would reasonably expect that their personal data would not be disclosed to the world at large under FOIA. Disclosure would likely cause those individuals harm and distress.
17. The Commissioner's view is that when considering what information individuals should expect to have disclosed about them, a distinction should be drawn as to whether the information relates to the individual's public or private life. In this case the information relates to those individual's income.
18. Based on the above factors, the Commissioner has determined that there is insufficient legitimate interest to outweigh the data subject'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

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 

Michael Lea
Team Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF