

Chief Executive
2 Franklin Street
BELFAST
BT2 8DQ

Tel: 028 9536 3863
Email: FOI.BSO@hscni.net

12th April 2023

BY EMAIL

Our Ref: FOI 1936

Dear [REDACTED]

Your request for information was received on 31st March 2023 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 regarding fees payable in relation to a current case, [REDACTED] versus the Western Health & Social Care Trust (WHSCT):

What was the total fee paid to [REDACTED] for services within my case.

What are the fees paid to date for [REDACTED] and what will her fee be per month/ per hearing/however she charges to include all fees to date and till the final hearing.

In relation to Counsels' 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.

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

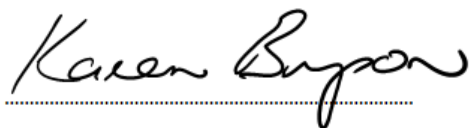
If, following an internal review, carried out by an independent decision-making panel, you remain dissatisfied in any way with the handling of the request, you may make a complaint under Section 50 of the Freedom of Information Act, to the Information Commissioner's Office and ask that they investigate 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 black ink, reading "Karen Bailey". The signature is written in a cursive style. Below the signature is a horizontal dotted line.

for Karen Bailey
Chief Executive

Chief Executive
2 Franklin Street
BELFAST
BT2 8DQ

Tel: 028 9536 3863
Email: FOI.BSO@hscni.net

23rd May 2023

BY EMAIL



Our Ref: FOI 1936

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 13th April 2023.

Please accept our apologies for the delay in providing you with a formal outcome to this request.

We can advise that a review panel was convened on 22nd May 2023 to review the BSO's response to this FOI. This review panel consisted of Ms Julie Erskine (Chair, BSO) and Ms Karen Hunter (Director of Strategic Planning and Customer Engagement, BSO).

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

Having done so, the review panel agreed that the response in respect of Counsel's fee is considered to be personal information relating to a third party, namely the individual barristers. As such, this information is considered to be exempt from disclosure under Section 40 (3A) (a) of the Freedom of Information Act.

Furthermore, the panel took into consideration the response that was issued to you in respect of FOI 1789, wherein the Information Commissioner's Office upheld the BSO's response.

The review panel therefore upholds the response issued by the BSO in respect of this FOI request.



In referring to your previous requests regarding this matter, the panel would like to advise you that should you continue to submit further requests for information regarding legal fees you will be referred to the previous responses issued.

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.

You can contact Information Commissioner at:

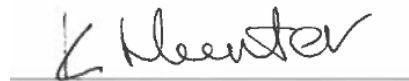
Website: www.ico.org.uk
Phone: 0303 123 1113
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Post: Information Commissioner's Office
3rd Floor, 14 Cromac Place
Belfast
BT7 2JB

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,



Ms Julie Erskine
BSO Chair



Ms Karen Hunter
Director of Strategic Planning and
Customer Engagement, BSO

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 6 July 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 submitted a request to the Business Services Organisation (BSO) for information relating to the fees paid to two named barristers.
2. The Commissioner's decision is that BSO was correct to withhold the requested information under section 40(2), with reliance on section 40(3)(a) of FOIA.
3. The Commissioner does not require any steps as a result of this decision notice.

Request and response

4. On 31 March 2023, the complainant wrote to BSO and requested information in the following terms:

 "Under FOI law, I request the following.

 What was the total fee paid to Anna McLarnon for services within my case.

 What are the fees paid to date for Ms Finnegan and what will her fee be per month/per hearing/however she charges to include all fees to date and till the final hearing".
5. A response was provided on 12 April 2023 in which BSO confirmed that the information was being withheld under section 40(2), with reliance on section 40(3)(a) of FOIA.
6. Upon receiving this response, the complainant requested an internal review on 12 April 2023 and on 23 May 2023, BSO provided its internal review response in which it maintained its original position.

Background

7. The Business Services Organisation has been established to provide a broad range of regional business support functions and specialist professional services to the health and social care sector in Northern Ireland.

Reasons for decision

Section 40(2)-personal information

8. Section 40(2) of FOIA 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.
9. Section 3(2) of the Data Protection Act 2018 (DPA) defines personal data as:

 "any information relating to an identified or identifiable living individual."

10. The two main elements of personal data are that the information must relate to a living person and that the person must be identifiable. The Commissioner is therefore satisfied that the request would fall within the definition of 'personal data' in section 3(2) of the DPA.
11. In decision notice IC-202129-C6F2¹, the Commissioner found that BSO was correct to rely on section 40(2) of FOIA to withhold the information. As the present request is also for information regarding specific barristers and their fees, the Commissioner is relying on the same reasons set out in paragraphs 13-18 in the above decision notice.
12. Based on the above factors, the Commissioner has determined that there is, like the previous request, insufficient legitimate interest to outweigh the data subject's fundamental rights and freedoms. The Commissioner therefore considers that there is no Article 6 basis for processing and so the disclosure of the information would not be lawful.
13. The Commissioner finds that section 40(2) of FOIA is engaged in respect of the withheld information.

¹ <https://ico.org.uk/media/action-weve-taken/decision-notice/2023/4025634/ic-202129-c6f2.pdf>

Right of appeal

14. 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

15. 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.
16. 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



Susan Duffy
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF