

## Freedom of Information Act 2000 (FOIA)

**Date:** 19 January 2012

**Public Authority:** The London Borough of Haringey  
**Address:** River Park House  
225 High Road  
Wood Green  
London  
N22 8HQW

### Decision (including any steps)

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1. The complainant requested information about the public authority's involvement in a child cruelty case. The public authority withheld this information as it believed that disclosure could lead to the identification of the children involved.
2. The Information Commissioner's decision is that the information is not 'personal data' for the purposes of disclosure under the Act.
3. The Information Commissioner requires the public authority to take the following steps to ensure compliance with the legislation:
  - disclose the requested information.
4. The public authority must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Information Commissioner making written certification of this fact to the High Court pursuant to section 54 of FOIA and may be dealt with as a contempt of court.

### Background

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5. The request concerns a child cruelty case. Links to the story can be found online.

<http://www.dailymail.co.uk/news/article-1380793/Haringey-mother-jailed-abusing-10-children-area-Baby-P-Victoria-Climbi.html?ITO=1490>

<http://www.thisislondon.co.uk/standard/article-23944455-mother-left-10-children-starving-and-lice-ridden-in-same-borough-where-baby-p-and-victoria-died.do>

## Request and response

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6. On 26 April 2011 the complainant wrote to the public authority and requested information in the following terms:

*"My request today concerns the recent jailing of a mother of ten children at Wood Green Crown Court for 18 months after she admitted child cruelty. Her former partner was also jailed for five child cruelty offences.*

*Under the Freedom of Information Act, I request all information to which I am entitled concerning:*

- 1) Given that the abuse of the children involved is said to have taken place between 2005 and 2009, when did Haringey Social Services first become officially involved in the case;*
- 2) Were any of the children on Haringey Social Services' 'at risk' register at any stage prior to the Metropolitan Police becoming involved? If so, in which month and year did this happen."*

Further information was also requested. However, this was provided to the complainant so the Information Commissioner has not found it necessary to reproduce the remainder of the request here.

7. On 27 May 2011 the public authority responded. It advised that the 'timeline' information is part of the social care record of the children and that it was under a duty to keep this confidential. It also said that *"given the unique circumstances of the family concerned"* that disclosure could *"involve personal data identifying the children"*. However, it confirmed that it had had knowledge of the family for several years before the involvement of the Metropolitan Police and also that the case was being reviewed in a new scheme involving the *"Local Safeguarding Children Board"*. It withheld the information which is the subject of this complaint citing section 40(2) (personal information) of the FOIA.
8. On 31 May 2011 the complainant sought an internal review. On 28 June 2011 the outcome was communicated; the public authority

maintained that the information was exempt by virtue of section 40(2) of the FOIA.

## Scope of the case

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9. On 12 July 2011 the Information Commissioner received a complaint from the complainant about the public authority's withholding of information.
10. The Information Commissioner confirmed with the complainant that he was only considering the two parts of the request outlined above.

## Reasons for decision

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### Section 40(2) – personal information

11. Section 40(2) provides that:

*“Any information to which a request for information relates is also exempt information if-*

- (a) it constitutes personal data which do not fall within subsection (1), and*
- (b) either the first or the second condition below is satisfied”.*

12. The exemption provided by section 40(2) is an absolute exemption in combination with section 40(3)(a)(i) or 40(3)(b). This is where disclosure of information which falls under the definition of 'personal data' contained in section 1(1) of the Data Protection Act 1998 (the "DPA") would breach any of the data protection principles.
13. In order to decide whether or not this exemption is engaged, the Information Commissioner shall first consider whether the requested information is the personal data of one or more third parties and whether the release of this information would be fair and lawful.

*Is the information personal data?*

14. Section 1(1) of the DPA provides two criteria that must be fulfilled for information to constitute 'personal data'. The information must relate to an individual, and that individual must be identifiable either from

that information directly, or from that information combined with other information available to the holder of that information.

15. The Information Commissioner has viewed the withheld information. It consists of dates and also confirmation as to whether or not any of the children had been formally registered as 'at risk' prior to the police's involvement.
16. The question in this case is whether disclosure of the requested information, either on its own or in conjunction with other available information, would itself give rise to the identification of any of the children concerned. If it would not, then following the rationale of the High Court in the case of Department of Health v Information Commissioner<sup>1</sup>, disclosure will not amount to a disclosure of personal data for the purposes of the FOIA.
17. The Information Commissioner notes that some articles about the case have appeared in the press, as mentioned earlier in this Notice. However, no parties have been publicly named.
18. In arguments to the Information Commissioner the public authority has advised that:

*"The particular family whose case is covered by the request is one in which there are 10 children. The fact of the criminal proceedings, mean that some information concerning the children is already in the public domain. The Council considers that the size of the sibling group is in itself an identifying feature of this case and that thus any further disclosure of information is likely to increase the risk of the children becoming identifiable.*

*In relation to the first request the Council considers that this has to be construed as a request about when the children first became involved with the Council although it is put in terms that suggest that it is about Haringey Council and not in itself about any information on the children's confidential social care record." "The Council is under a duty on behalf of the children to maintain the confidentiality of the information concerning them. Such information would of course include that concerning whether and when they became involved with Haringey Council and whether they were subject to registration on the child protection register and the date of any such registration. Thus the Council believes that Section 40(2) is engaged for this specific information".*

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<sup>1</sup> Department of Health (DoH) –v- Information Commissioner  
CO/13544/2009

19. The first part of the request asks for 'when' the public authority became involved with the party concerned. It has already advised that it had known about the family for 'several years'. Although it has advised that the date appears on the social care records of the family concerned, the Information Commissioner does not accept that providing this information would afford any more likelihood of identification of the children concerned. Although the fact that there are 10 children involved does indeed mean that the information relates to a particularly large family group, he fails to see how knowing the date that the public authority became involved with the family would assist with identification. Therefore, the Information Commissioner does not agree, in the circumstances of this case, that this date alone is 'personal data'.
20. In respect of the second part of the request, the Information Commissioner also fails to see how confirming whether or not any of the children were formally considered 'at risk' and registered as such by the public authority could increase the likelihood of their identification. The same applies to any date of such registration.
21. The Information Commissioner therefore concludes that the withheld information is not personal data. Accordingly he finds that the exemption relied upon by the public authority is not engaged. The information should therefore be disclosed.

## Right of appeal

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22. 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: 0300 1234504  
Fax: 0116 249 4253  
Email: [informationtribunal@hmcts.gsi.gov.uk](mailto:informationtribunal@hmcts.gsi.gov.uk)  
Website: [www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm](http://www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm)

23. 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.
24. 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 .....

**Graham Smith**  
**Deputy Commissioner**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**