



Treasury Solicitor's Department

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Our reference: BVFOI/195/13 re Leon Nowak

Freedom of Information Act 2000 Request

You asked for the following information from the Treasury Solicitor's Department ("the Department"):

Can you guarantee that the information I am looking for can be found on the death certificate?

What happens in a situation when in the death certificate, is not information that I would like to get about Leon?

It follows that the Bona Vacantia has information about Leon Nowak so, please again, let me know what I should do (or what I should have to do) to get this information from Bona Vacantia.

Your request will be dealt with by the Bona Vacantia Division ("the Division") under the Freedom of Information Act 2000.

The Division holds some of the information that you have requested.

We cannot guarantee that the death certificate includes the information that you want. If you would like to check the information on the death certificate you should obtain a copy of the certificate itself.

Certificates can be obtained from the local Registrar where the event took place or from the General Registrar Office (GRO), PO Box 2, Southport, Merseyside, PR8 2JD or by telephoning 0845 603 7788. Further details can be obtained from the GRO's website at www.direct.gov.uk/gro. The information is reasonably accessible to you by other means and is therefore exempt from disclosure under section 21 of the Act. This exemption confers absolute exemption from the requirement to provide information pursuant to section 1(1)(b) of the Act.

Information that is accessible by other means is exempt from disclosure under the Act. As you can obtain the death certificate as set out above the Division is not obliged to disclose the information on the death certificate. The Act also does not oblige the Division to guarantee the accuracy or usefulness of information that it holds, nor does it oblige us to provide advice as to how to obtain such information where we do not hold it.

For completeness I should say that the Division does hold further information that may relate to Mr Nowak. This information is contained in certificates and family trees that have been supplied to the Division in support of an incomplete kin claim to the estate.

The information contained in the certificates and family trees is not the information requested in your previous correspondence relating to Mr Nowak's previous address, his workplace, occupation, place of burial and whether and when he received British citizenship. The certificates and family trees do not include a photograph.

However, they do include information that may relate to Mr Nowak's extended family and potential blood relatives. However, this information is exempt from disclosure under the Act as the Division considers that it was provided to us in confidence, and that to reveal the information would constitute an actionable breach of that duty. Accordingly the information is exempt from disclosure under section 41(1) of the Act.

In considering whether disclosure would be an actionable breach of confidence the Division has considered whether there is a public interest in disclosing the information that would outweigh the public interest in keeping the information confidential.



There is a strong public interest in keeping confidential information that has been disclosed in confidence, and in this case there is no specific reason in favour of disclosure of the information. Disclosure would not protect public safety, nor would it expose wrongdoing such as misfeasance, maladministration, negligence or other iniquity on the part of the Division. In this case the Division considers that the public interest in keeping the information confidential outweighs the public interest in disclosing it.

Some of the individuals referred to in the information supplied in support of the incomplete kin claim are still alive. Insofar as the information relates to living individuals it is also exempt from disclosure under section 40(2) of the Act. The information is exempt from disclosure because it constitutes the personal data of a living individual as defined in section 1(1) of the Data Protection Act 1998 and disclosure of the information would be in breach of the data protection principles set out in Schedule 1 of that Act. In particular, disclosure of the information would contravene the first data protection principle, which requires that personal data be processed fairly and lawfully.