



Our reference: BVFOI/138/17 re Joseph Bulmer

Freedom of Information Act 2000 Request

You asked for the following information from the Government Legal Department (“the Department”):

What information/documentation was provided by (REDACTED) to have their claim accepted?

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

The Division holds all the information that you have requested.

I am withholding details of the successful claim as it is 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.

The information is also being withheld as it falls within the exemption in section 43(2) of the Act (information, the disclosure of which would, or would be likely to, prejudice the commercial interest of any person (including the public authority holding it)).

The information has been provided by a third party who has a commercial interest in the information. The third party obtains financial benefit from locating kin. Disclosure of the information they have provided could prejudice their ability to benefit financially from locating kin.

In applying the exemption, we have had to balance the public interest in withholding the information against the public interest in disclosing the information. There is a strong public interest in ensuring that the Division’s activities are conducted in an open, transparent and honest way and that any entitled kin are discovered.

However, disclosure of the exempt information could significantly affect the third party’s willingness (and the willingness of other similar parties) to provide us with information about possible kin in future. It is in the public interest for the possible existence of entitled kin to be brought to the Division’s attention and for this to occur at the earliest opportunity in order to preserve public funds. Additionally, it is not in the public interest to weaken the position of the third party in the competitive market in which they operate, by revealing information they have obtained through their own efforts which may be of use to their competitors.

In conclusion, we do not consider that the considerations in favour of disclosure of this information outweigh the considerations in favour of withholding the information. Therefore, having considered the public interest, the Division’s decision is to withhold the information under section 43(2).

The Division also considers that the information was received 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.