



Pubs Code Adjudicator

Office of the Pubs Code Adjudicator
Lower Ground
Victoria Square House
Victoria Square
Birmingham
B2 4AJ

Email: office@pubscodeadjudicator.gov.uk

6th January 2020

Dear [REDACTED],

Thank you for your email, received on 4th December 2019, in which you requested information from the office of the Pubs Code Adjudicator (PCA) under the Freedom of Information Act 2000 (FOIA).

The FOIA entitles you to:

- know whether the information you have requested is held by the PCA; and
- be provided with that information, subject to any exemptions in the FOIA which may apply.

You have requested the following information with reference to invoices attached to your email:

1. What expertise was provided by the consultant that couldn't be provided by civil servant?
2. Was any attempt made to replace them with a civil servant?
3. Was consultant one individual?
4. How long did arrangement continue?
5. Why pay at daily rate?
6. Are they still at the PCA?
7. Are they still on daily rate?

I can confirm that the office of the PCA does hold some of the information relevant to your request.

Information is not held in relation to questions 1 and 2. You may wish to be aware that there is no requirement for the PCA to seek its staff from within the Civil Service. Staff may be seconded to the PCA from the public or private sector. The PCA is supported by a staff consisting of secondees, consultants and has in the past made use of the support of junior Counsel through the Government Legal Department's baby barrister scheme to meet the business requirements of the PCA. The PCA has run recruitment campaigns to recruit secondees to the Office of the PCA. These recruitment exercises have covered numerous roles according to business need.

In relation to question 3, more than one consultant has been engaged by the PCA.



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The information requested at questions 4 to 7 is exempt under s.40(2) of the FOIA. The PCA is a very small organisation and in light of this and the information provided on the invoices, such as dates, there is a real risk that answering these questions could reveal information about identifiable individuals, constituting personal data for the purposes of s.40(2)(a).

In relying on s.40 FOIA, and in accordance with s.40(2)(b), the first condition set out at s.40(3A), is satisfied. This is because disclosure of information would contravene one of the data protection principles. The most relevant in this instance is the principle that personal data shall be processed lawfully, fairly and in a transparent manner in relation to the data subject. Section 40(8) of the FOIA confirms that in determining for these purposes whether the lawfulness principle (in Article 5(1)(a) of the General Data Protection Regulation No 2016/679 (GDPR)) would be contravened by the disclosure of information, a public authority may consider the legitimate interests lawful basis for processing. To decide whether there is a legitimate interests lawful basis for processing the PCA has considered:

- a. Whether there is a legitimate interest in disclosing the information; and
- b. Whether it is necessary for that legitimate interest to disclose the information requested.

On point a, there is a legitimacy to transparency in public life and in the dealings and accountability of public authorities.

On point b, in determining whether it is necessary to disclose the information, the PCA has considered whether a pressing social need for any interference with privacy rights exists and whether the interference is proportionate. There is already oversight and transparency in relation to the PCA's spend and staffing. The 2018/19 Annual Report and Financial Statements is certified by the National Audit Office and is publicly available on our website. A link to that report can be found [here](#). The report contains information about the operational structure and staffing of the PCA, and in particular the staff report section (starting on page 34) contains very detailed information about total staff wages, office make-up and off-payroll engagements. A similar Annual Report has been published in relation to each financial year since May 2016 when the first PCA was appointed, including for the dates for which the relevant invoices apply.

In order to achieve the legitimate aim of transparency of finances in public life, it is not necessary to disclose the information requested at questions 4 to 7, the answers to which could identify individuals and constitute personal data, with no lawful basis for processing that data.

If you do not believe that the office of the PCA has provided an appropriate response to your request, as set out above, you are entitled to ask for an internal review. Internal review requests should be submitted within two months of the date of receipt of the response to your original request and should be made in writing, quoting the above reference, to office@pubscodeadjudicator.gov.uk or:

PCA
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Pubs Code enquiries to 0800 528 8080 or enquiries@pubscodeadjudicator.gov.uk
Website: www.gov.uk/pca



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If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF.

Yours sincerely,

[Redacted signature]

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