



Derry City & Strabane
District Council

Comhairle
**Chathair Dhoire &
Cheantar an tSratha Báin**

Derry Cittie & Strabane
Destrack Coouncil

Ref: FOI / 1666

13 March 2018

Mr
Email: @gmail.com

Dear Mr

Freedom of Information Act 2000 Request Street Traders

I refer to your FOI request as below and advise that Council holds the requested information. Please see attached in response.

I would advise however Council has obligations to protect the personal information of individuals under the Data Protection Act. Therefore there is an exemption on disclosure of information which we feel is the personal information of identifiable individuals.

The Council believes that any detailed information would be personal data as defined by Section 1(1) of the Data Protection Act (DPA) as it relates to an identifiable individual. Therefore the information you requested is personal data as described in section 40(2)(a) of the FOIA.

40 (2) 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.

Having determined that the information is personal data we then considered whether any disclosure would breach any of the data protection principles in respect of section 40(3)(a)(i) detailed below,

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40 (3) The first condition is –

(a) in a case where the information falls within any of the paragraphs (a) to (d) of the definition of “data” in section 1(1) of the Data Protection Act 1998, that the disclosure of the information to a member of the public otherwise than under this Act would contravene

(i) any of the data protection principles,

The first principle in the Data Protection Act states:

“1. Personal data shall be processed fairly and lawfully and, in particular, shall not be processed unless – (a) at least one of the conditions in Schedule 2 is met.”

Therefore we have to consider whether it would be fair to disclose the information to the public, especially in light of the fact that the information is disclosed to the wider public not just the specific requester. In short, would it be fair on the individuals in question to disclose their personal information. We do not feel that the individuals in question would reasonably expect their information to be disclosed in this way and therefore it would be unfair on them to do so. Therefore by disclosing this information the Council risks being in breach of the first principle of the Data Protection Act and therefore the exemption provided by Section 40(2) and (3) of the Freedom of Information Act is engaged.

If we were to go on and consider the conditions for processing held in Schedule 2, the only ones relevant in this case which potentially could be met would be the first condition and the sixth condition which is:

“1. The data subject has given his consent to the processing.”

“6. The processing is necessary for the purposes of legitimate interests pursued by the data controller or by the third party or parties to whom the data are disclosed, except where the processing is unwarranted in any particular case by reason of prejudice to the rights and freedoms or legitimate interests of the data subject.

We do not have the consent of the data subject to disclose their data. Consequently the first conditions in Schedule 2 cannot be met. We also do not believe that the sixth condition can be met. Therefore, we have determined that none of the conditions in Schedule 2 can be met.

In conclusion we feel that disclosure of the information in question risks the Council being in breach of the first principle of the Data Protection Act. As a result the exemption provided by Section 40(2) and (3) of the Freedom of Information Act is engaged. As an absolute exemption we are not obliged to consider the public interest test.

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If you are dissatisfied with our response you have rights of review and appeal; these rights consist of two review processes.

Firstly our internal review procedure is available by contacting:

John Kelpie
Chief Executive
Derry City and Strabane District Council
98 Strand Road
Derry BT48 7NN
Tel 028 71253253 or email john.kelpie@derrystrabane.com

Secondly, you can appeal directly by contacting the Information Commissioner at:

Information Commissioner
Wycliffe House
Water Lane
Wilmslow
CHESHIRE SK9 5AF
Tel: 0303 123 1113 (local rate) or email: casework@ico.org.uk

Yours sincerely

Principal Officer
Licensing and Safety Advisory Group



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