



**IN THE MATTER OF AN APPEAL TO THE FIRST TIER TRIBUNAL
(INFORMATION RIGHTS)
UNDER SECTION 57 OF THE FREEDOM OF INFORMATION ACT 2000**

EA/2014/0264

ON APPEAL FROM:

The Information Commissioner's Decision Notice No: FS50537924

Dated: 25 September 2014

B E T W E E N:-

MAUREEN EDMONDS

Appellant

-And-

THE INFORMATION COMMISSIONER

Respondent

Before

Melanie Carter

Judge

and

Jean Nelson and John Randall

Tribunal Members

Date of Decision: 10 April 2015

Date of Promulgation: 13 April 2015

DECISION OF THE FIRST-TIER TRIBUNAL

1. This appeal concerns a request for information under the Freedom of Information Act 2000 (“the Act”) to Northamptonshire County Council. The Appellant wrote to the Council (undated) requesting information as to its actions when it handled the death of her father whilst in care. She asked for details as to why the Council took specific actions and for details as to council officers engaged in her father’s case. The Council provided certain information as to the former, but responded that the latter information was exempt under section 40(2) of the Act. It was claimed that the information requested consisted of the personal data of third parties, the disclosure of which would lead to a breach of the First Data Protection Principle if disclosed.

2. The request for information was as follows:

“1. Why did NCC accept an inadequate General Power of Attorney document from [name redacted], when, in June/July 2007 they informed her that she would have to register her father’s condition of severe dementia and having no mental capacity with HM Court of Protection, which would require the raising of a Lasting Power of Attorney document?”

2. Why did NCC ask [name redacted], ([name redacted]’s husband, who was not listed as an attorney on her GPA) to raise a monthly direct debit mandate in 2009, which allowed NCC to take funds totalling £21,246.76 from [name redacted]’s Lloyds current account for supposed care costs arrears, including three direct debit payments amount to £669.00 in the two months after his death.

3. *Why did NCC illegally accept a cheque from [name redacted] for the sum of £14,687.14 she withdrew from her father's account after his death and which the council cashed on the 5th of May 2010 with the certain knowledge they would be in a breaking Probate Law as a General Power of Attorney ceases on the death of the donor and the deceased account must be closed immediately after death. My father's accounts remained open until August 2012.*

4. *Why did [name of council officer redacted] of NCC refund £6,403.78 when my father's account had already been finalized, only after I queried the extra care costs taken by the council, and why did she pay the refund to [name redacted]'s solicitors [name of solicitors redacted] when she informed me, in a letter dated the 24th November 2011, she was returning the sum to my father's estate? [Name of solicitors] never applies for or were granted the Letters of Administration they informed me in a letter dated the 18th August 2010 they were applying for to the Probate Registry. Why haven't NCC or the Police ordered [name of solicitors] to return the money they are still illegally holding the estate?"*

3. The Appellant wrote to the Council and made a further request on 28 April 2014 asking for details of six members of staff who had worked for the Council between 2010 and 2013. She asked how many of these staff still worked for the Council and stated that she did not need to know the names. The Council responded that only one of the five continued to work at the Council. It subsequently provided clarification in relation to all six of the employees.

4. The Appellant complained to the Commissioner whose Decision Notice dated 23 September 2014, stated that the Council had been correct to refuse the request, firstly on the basis that the request was for explanations rather than recorded information; the Act only providing a right to information held, not the creation of new information or explanations. The Commissioner also decided that the Council had been correct to apply section 40(2) to the personal data of the officers.
5. The Appellant's Notice of Appeal did not put forward any grounds of law, rather addressing her sense of grievance at the Council for the actions taken and the refusal to disclose the information. The question for the Tribunal was whether the Decision Notice was in accordance with the law – this required her to address the Act and its requirements. The Appellant had not raised any arguments that went to this legal question.
6. The Tribunal agreed with the Commissioner that there was no obligation under the Act for the Council to answer questions; the Appellant's rights under the Act were, subject to exemptions, to be informed only as to existing information already held. The matters raised by the Appellant as to the propriety of the Council's actions and responses were beyond the jurisdiction of the Commissioner and the Tribunal.
7. With regard to the Council's reliance on section 40(2), the Tribunal agreed that the information requested was details of staff who had worked at the Council and would amount to their personal data. It would, in the Tribunal's view, be the

reasonable expectation of those individuals that their personal data (whether or not they still worked at the Council) would not be released to the world at large further to a request under the Act. There was not, furthermore, in the Tribunal's view, any pressing social need for disclosure which could be said to override the expectations of those individuals. The Appellant had failed to make any arguments as to any wider public interest in these matters; the underlying issues were essentially private affairs. As such, disclosure would be a breach of the First Data Protection Principle. This meant in turn that the exemption at section 40(2) applied.

8. The appeal was accordingly dismissed.

Melanie Carter

Tribunal Judge

10 April 2015