



**FIRST-TIER TRIBUNAL
GENERAL REGULATORY CHAMBER
Information Rights**

Tribunal Reference: EA/2012/0249
Appellant: Gordon Bridger
Respondent: The Information Commissioner
Judge: NJ Warren

DECISION NOTICE

1. Mr Bridger has given many years of public service to the people of Guildford. He is a former Mayor and now an honorary Alderman. He has serious concerns, shared with other Aldermen, about the present management of Guildford Borough Council (“the Council”) and about the morale amongst staff.
2. One concern is the manner of the ending the employment of two employees who later came to an agreed confidential financial settlement with the Council. On 21 May 2012 he made a Freedom of Information Act (FOIA) request to the Council. In respect of each of the employees he wanted to know the amount of any payment over and above that expected in their normal severance package. He also wanted to know the reasons for the sudden termination of their employment.
3. The compensation figure paid to the more senior of the two employees has since been published by the Council. This is because there are new requirements that individual financial details of any severance payment to all local authority officials earning over £50,000 must be made publically available.
4. The Council refused his request. Mr Bridger unsuccessfully asked the Information Commissioner’s Office (ICO) to intervene. He then appealed to the Tribunal. The ICO has now asked for the appeal to be struck out on the ground that it has no reasonable prospect of success. The stumbling block for the appeal, according to

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the ICO, is that the information requested is the personal data of the employees concerned and that accordingly, in ordinary language, it should remain private.

5. Mr Bridger argues that the sums of money must have been paid in order to forestall a claim for unfair dismissal and that, if so, there is a strong case for saying that they were paid in order to hide mismanagement. He claims that this action and many others over the last three years have had a very demoralising effect on staff. The facts should therefore be revealed.
6. I have not myself seen the disputed information and this has led me to hesitate over the ICO application. However, as the ICO has pointed out, when considering cases under Section 40(2) FOIA, the issue of fairness is not a “public interest balancing exercise”. See para 10 of the ICO response.
7. I have concluded that the strong expectation of privacy which the employees have in these circumstances is an overwhelming factor in this case and that for the reasons the ICO gives, it is inevitable that a Tribunal will conclude that the information should not be disclosed. I note that in explaining the result he wants from the Tribunal Mr Bridger begins:-

“That GBC have acted in a fashion that has demoralised council staff, makes them fearful of acting in a way which would upset senior managers....”

This Tribunal, however, cannot investigate those circumstances or give a ruling to that effect. I mean no disrespect to the genuine public spirited motives which have prompted Mr Bridger to launch this appeal but, in my judgement, it would do no one any favours to allow it to proceed to a full hearing.
8. I therefore strike out the appeal on the ground that there is no reasonable prospect of it succeeding.

(Signed on the original)**NJ Warren****Chamber President****Dated 13 February 2013**