

FREEDOM OF INFORMATION ACT 2000

We have now considered the request you made relating to the death of Mr Steven Gale. I am very sorry for the very long delay in assessing this particularly sensitive case.

I can confirm that the Council holds the information that you requested. The majority of this information however is exempt from release under sections Section 40 (Personal Information), Section 41 (Information provided in confidence), Section 36, paras 1b, 2b i & ii and 2c (Effective Conduct of Public Affairs) and Section 38 (Health & Safety) of the Freedom of Information Act and the majority of the information requested is therefore being withheld.

Nearly 3 years had elapsed between the last known point at which information about this case was placed in the public domain (the trial/sentencing of Mr Green for murder); and the date of receipt of the request for this information. Whilst personal information about Mr Gale and other individuals entered the public domain at the time of Mr Gale's death and the subsequent court proceedings, it would not be reasonable of The Council to place fresh information regarding these individuals into the public domain at this point, especially in the absence of a significant amount of public interest in release of this information.

The documents are not indicative of any wrong-doing or poor practice by the Council. Whilst disclosure may assist in making this apparent, this is not sufficient reason for placing fresh information about this case into the public domain nearly 3 years after the murder trial.

Given that the documents are not indicative of any wrong-doing or poor practice by the Council in this case, release of the documents would not contribute to/stimulate any 'lesson learning' that would inform developments in social care practice and procedures either at local or national level, so again there is not a public interest there for release.

Section 40(2) - Where the documents contain personal information about living people, and significantly:

- Potentially sufficient information for a person to identify Mr Gale's parents and their respective home addresses etc.
- Sensitive personal data about individuals

release by the Council of personal data into the public domain would constitute a breach of the Data Protection Act 1998 and its principles. It is also common practice as per the Information Commissioner's guidance to exempt the release of less senior staff names. This is an absolute exemption under the Freedom of Information Act and the public interest need not be considered.

Section 41 - Mr Gale is deceased, therefore personal data about him is no longer subject to the provisions of the Data Protection Act 1998. However,

information originally held in confidence may still carry that confidence beyond the death of the subject. All of the personal information held is information that was provided in confidence for social work purposes. Disclosure of the information concerned, particularly that relating to health and social work records, could constitute a breach of confidence actionable by Mr Gale's parents or executor, or conceivably by the other agencies who supplied data to us.

Section 38 - It is not known whether the address is still the home address of previously involved individuals. If it is, release of the address may constitute a breach of the Data Protection Act.

In the event that the address is not deemed to constitute personal data, in the event that:

- The address is still occupied by the above; or
- the address is no longer occupied by the above

section 38 is applicable on the grounds that release could be likely to endanger the physical/mental health or safety of the current occupiers/owners or their neighbours in the event that:

- release of the address into the public domain led to any individual(s) visiting the premises to sightsee, hoping to see/interact with the persons concerned;
- the current occupants were not aware that a murder had taken place at the address;
- if the address is associated with a murder, it may have an effect on the property's value/saleability and those of neighbouring properties.

Section 36 (2) (c) - If the dwelling is in public ownership (the Council or Housing Association), the ability to let it and its value may be detrimentally affected and this is not conducive to the effective conduct of public affairs.

Section 36 (2) (b) (i) and (ii) If the Council was to place into the public domain information obtained from Mr Gale in these circumstances, this would be likely to have a detrimental effect on the willingness of people to provide information to the Council's social services. This would be detrimental to the conduct of effective social work and our discharge of legal obligations towards the public. Whilst the Council cannot guarantee to service users that information gathered for social care purposes will not be passed on to others; such transfer of information would ordinarily be to other agencies and for social work/other specific purposes, and would ordinarily be made with the consent of the service user; or where processing of the information is otherwise necessary in order to fulfil a legal requirement. Disclosure of information made in such circumstances would not be made into the public domain, except perhaps in very exceptional circumstances where the vital interests of the service user/ other individuals were at stake. Disclosure would, or would be likely to inhibit the ability of public authority staff and others, when deliberating or providing advice, to express themselves openly, honestly and completely, or to explore options and discuss the case frankly.

This information is exempt under section 36 of the Freedom of Information Act, which provides an exemption if in the reasonable opinion of a qualified person, disclosure of the information under this Act would, or would be likely to prejudice the effective conduct of public affairs. The Council's Monitoring Officer has reached the opinion that such prejudice would be caused for the following reason:

Knowledge that the contents of such a report have been released into the public domain would be likely to inhibit staff from reacting openly and with speed to provide information with which to brief managers and to inform decision making. Such inhibition would inhibit the free and frank deliberation that needs to take place within the Council in response to the death of a services user, including swift initial and longer term deliberation regarding any further actions needed to safeguard other members of the service user's family or members of the general public.

I believe that the current request is not indicative of a strong public interest in disclosure, but would serve the private interests of a single member of the public. Having considered the public interest at this time, the Council's decision is therefore to withhold the information it feels exemptions apply to.

May I stress that Freedom of Information requests are applicant blind, and if we release the information to one requester, we must release it to all requesters, and indeed in future, publish the response on our website. I therefore attach the information that we feel we can release under the Freedom of Information Act 2000.

If you are dissatisfied with the handling of your request, you have the right 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 letter and should be addressed to:

Information Governance Manager
Information and Support
Leicester City Council
FREEPOST (LE985/33)
New Walk Centre
LEICESTER LE1 6ZG
e-mail: foia@leicester.gov.uk

Please remember to quote the reference number above in any future communications.

Your request for internal review should be submitted to the above address within 40 (forty) working days of receipt by you of this response. Any such request received after this time will only be considered at the Council's absolute discretion.

You can also complain to the Information Commissioner at:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow SK9 5AF
Telephone: 01625 545 700
www.informationcommissioner.gov.uk

Please be aware that the Information Commissioner does not normally consider appeals or complaints until the internal appeals and complaints processes of the public authority which is answering the request have been exhausted. You are therefore advised to complain or appeal to the Information Governance Manager before contacting the Commissioner.

Yours sincerely

Lynn Wyeth
Information Governance Manager