

IP/IT

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FOI and Employers

A recent decision of the Information Commissioner in England under The Freedom of Information Act 2000 (**FOIA**) will be of much interest to employers in the public sector:

http://www.ico.gov.uk/upload/documents/decisionnotices/2009/fs_50184888.pdf

This decision also provides useful interpretative guidance for the purposes of The Freedom of Information (Scotland) Act 2002 (**FOISA**).

Facts

A council employee, who had applied unsuccessfully for two internal vacancies, requested information about the recruitment process (including application forms of other applicants). Leicester City Council refused the request and applied an exemption under FOIA (Section 40(2)), arguing a breach of the Data Protection Principles found within The Data Protection Act 1998.

The Information Commissioner decided that the employee was entitled to general information about the other applicants' experience and qualifications, provided in an anonymised form.

Significance

This decision will be of significance to employers in the public sector, in that unsuccessful job applicants may be able, pursuant to freedom of information legislation, to obtain details of the application process including interview notes and a general summary of the experience and qualifications of other applicants.

Not only does this decision provide useful guidance on the personal data exemption pursuant to FOIA / FOISA, but highlights that employers must ensure that they undertake a fair, non-discriminatory selection process, and that any interview notes taken may be subject to public scrutiny.

This Alert! is correct to the best of our knowledge and belief at the time of going to press. It is however written as a general guide, so it is recommended that specific professional advice is sought before any action is taken. We are required by law to protect personal data.

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If you would like any further information on any of these cases or news items, or any other IP/IT issues, please call the person at D&W with whom you normally liaise, or one of the following specialists:

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