

FOI 2492

02/07/2024

FREEDOM OF INFORMATION ACT 2000 – INFORMATION REQUEST

In relation to your request the Southern Trust is providing a Neither Confirm Nor Deny (NCND) response and by virtue of Section 40 of the Freedom of Information Act 2000 (FOIA) and are neither confirming nor denying whether we do or do not hold the information you seek.

Section 1 of the Freedom of Information Act 2000 (FOIA) places two duties on public authorities.

Unless exemptions apply, the first duty at Section 1(1)(a) is to confirm or deny whether the information specified in the request is held. The second duty at Section 1(1)(b) is to disclose information that has been confirmed as being held.

Where exemptions are relied upon Section 17(1) of FOIA requires that we provide the applicant with a notice which

- a) states that fact,
- b) specifies the exemption(s) in question and
- c) states (if that would not otherwise be apparent) why the exemption applies.

The Trust can Neither Confirm Nor Deny that it holds the information relevant to your request as the duty in Section 1(1)(a) of the Freedom of Information Act 2000 does not apply by virtue of the following exemption:

Section 40 (5B)(a)(i) – Personal Information - the duty to confirm or deny does not arise if to do so would contravene any of the data protection principles.

Section 40 is a Class-based exemption, therefore it is not necessary to evidence the harm caused by disclosure nor is it necessary to carry out a public interest test in this case.

The Trust follow the Information Commissioner's Guidance in relation to 'NCND' and you may find it helpful to refer to this at the following link:

<https://ico.org.uk/for-organisations/foi/section-40-and-regulation-13-personal-information/index/>

The release of information under Freedom of Information (FOI) is a release into the public domain and not just to the individual requesting the information. Once information is disclosed by FOI there is no control or limits as to who or how the information is shared with other individuals, therefore a release under FOI is considered a disclosure to the world in general. To confirm or deny that the Trust hold or do not hold information would in fact confirm information about an individual. This would amount to a release into the public domain of personal information about an individual and likely to cause distress. The individual would have no expectation that these details would be released

into the public domain; therefore the Trust would breach its data protection obligations and be unfair to individuals.

However, this response should not be taken as evidence that the information you requested is held or not.

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