

## **Freedom of Information – Response – 26687**

*Please treat this as a request for information under the Freedom of Information Act 2000. I am requesting anonymised, non-personal data relating to any contact made by XXXXX Ltd to your organisation in relation to a safeguarding concern.*

*Please provide the following:*

*1. Between 1 April 2025 and 31 July 2025, did XXXXX Ltd submit any of the following to your organisation?*

- A safeguarding referral*
  - A safeguarding concern or notification*
  - A request for advice relating to a contractor, tutor, mentor, or staff member*
  - Any report relating to online or remote mentoring sessions with a child or young person*
- Please confirm yes or no.*

*2. For any contact within this period, please confirm:*

- The date the referral or contact was received*
- Whether a case number or reference was created*
- Whether the referral was screened, investigated, or no further action*
- Whether your organisation issued any advice to XXXXX Ltd regarding:*

*suspension,*

*removal from duties, or*

*termination of a role or contract*

Suffolk County Council (SCC) is applying s.40 to this request and are not confirming or denying that this information is held.

The decision to neither confirm nor deny that the information is held is not affected by whether a public authority does or does not in fact hold the requested information. Guidance from the Information Commissioner states that there may be circumstances in which merely confirming or denying whether or not a public authority holds information about an individual can, in itself, reveal something about that individual.

Section 3(2) of the Data Protection Act 2018 defines personal data as:

*‘any information relating to an identified or identifiable living individual.’*

The two main elements of personal data are that the information must relate to a living person and that the person must be identifiable.

An identifiable living individual is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of the individual.

Information will relate to a person if it is about them, linked to them, has biographical significance for them, is used to inform decisions affecting them or has them as its main focus.

Confirming or denying this information would reveal data about an identifiable living individual.

Whilst confirming or denying that information is held would reveal personal data of an identifiable living individual it does not automatically prevent the public authority from doing so. The second test is to determine whether confirming or denying that the information is held would contravene any of the data protection (DP) principles. The most relevant DP principle in this case is principle (a).

Article 5(1)(a) of the UK GDPR, which concerns this principle, states the following: "Personal data shall be processed lawfully, fairly and in a transparent manner in relation to the data subject."

In the case of an FOI request, personal data is processed when it is disclosed in response to a request. This means that the information can only be disclosed, or as in this case, the public authority can only confirm whether or not it holds the requested information, if to do so would be lawful, fair, or transparent.

Responses to FOI requests are not a private matter between the requester and the public authority but rather it is unrestricted disclosure "to the world at large". Data subjects would have a reasonable expectation that their personal data would not be disclosed to the world at large in relation to a request and doing so would likely be intrusive and cause them harm and distress.

When considering whether the disclosure of personal information would be lawful, we must consider whether a legitimate interest is being pursued, whether confirming or denying that the requested information is held is necessary to meet that legitimate interest, and whether these interests override the rights and freedoms of the data subject whose personal information it is. From the information available to Suffolk County Council (SCC) there is no legitimate interest identifiable.

As there is no legitimate interest identified SCC are of the opinion that issuing a confirmation or denial would breach Article 5(1)(a) of the UK GDPR, because it would not be fair to disclose the personal data."

