

28 September 2018

Our Reference
CAS-407780-C94DP6

Mr Ross McGill
By email:

request-517382-4bf862fc@whatdotheyknow.com

Dear Mr McGill

Your request for information

Thank you for your email of 2 September 2018 in which you requested disclosure of the following information:

"I would like to request an anonymised sample of 2017/18 performance management appraisal targets (set by line managers) for the senior members of OfSTED staff, ending 31st March 2018. The details are related to the Annual Report and Accounts 2017-18: Accountability report."

The Freedom of Information Act

We have dealt with your request in accordance with the Freedom of Information (FOI) Act 2000. The first requirement of the Act is that we should confirm whether or not we hold information of the description set out in your request. We are then under a duty to provide you with all the information we hold which falls within the scope of your request, provided it is not 'exempt' information.

In this case you have requested 'an anonymised sample' of performance targets for senior Ofsted staff. We have considered whether it is possible to produce and disclose an anonymised sample, from the performance management information that we have about individual senior civil servants who work for us.

Our conclusion is that it is not possible to present the information from these performance targets in a manner so that they are fully anonymised. Each target remains linked to an identifiable individual and their performance. Given that there is no expectation that performance targets for individual staff would be released to the public, it would not be considered fair to make such information available. This is explained in full in the attached Annex A.

For your information, senior civil servant objectives follow a strict protocol which can be found in published guidance.¹

If you are dissatisfied with our response or the handling of your request under the FOI Act, you may request a formal internal review. In order to do this, please write to the following address, setting out which areas of the response you are unhappy with:

Email: Richard McGowan at informationrequest@ofsted.gov.uk or write to:

Head of Information Rights and Correspondence
Ofsted
2 Rivergate
Temple Quay
Bristol
BS1 6EH

If you are not content with the outcome of the internal review, you also have the right to apply to the Information Commissioner for a decision as to whether or not we have complied with our obligations under the FOI Act with respect to your request. The Information Commissioner can be contacted at:

<https://ico.org.uk/concerns/getting/>

or:

Customer Contact
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
SK9 5AF

Yours sincerely,

A handwritten signature in cursive script, appearing to read "Karen Shepperson".

Karen Shepperson
Director, People and Operations

¹https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/715717/HR-Practitioners-SCS-Performance-Management-Guidance-v14-May-2018.pdf

Annex A – Exempt Information

Section 2(2) of the FOI Act describes circumstances in which information is 'exempt' and therefore does not have to be provided in response to a request. In this instance we consider the exemption at section 40(2)² of the Act applies to the disclosure of performance management appraisal targets for individual senior Ofsted staff.

This exemption applies to any requested information which is personal data. Personal data is defined, within the GDPR³, as being "*any information relating to an identified or identifiable natural person [...] who can be identified, directly or indirectly [...]*".

Performance targets are personal data, as each target directly relates to the individual, and is a measure by which their performance is judged as an employee. Even where staff may share some similar common objectives, these can still be directly attributed to individual staff and their performance.

Section 40(2) of the FOI Act sets out conditions which, if they apply to the personal data, mean that it cannot be disclosed to the public. The first such condition is where disclosing the personal data to the public "would contravene any of the data protection principles". We think this condition is relevant to this request.

The data protection principles, as set out in Article 5(1) of the GDPR, require that personal data shall be processed lawfully, fairly and in a transparent manner. If no lawful basis can be found, then our processing will contravene this principle. In order to process personal data fairly, Ofsted must only handle it in ways that people would reasonably expect; and not use it in ways that have unjustified adverse effects on them.

There is no general or reasonable expectation that senior civil service staff will have their performance targets published, or made public on request. This is not an established practice in Ofsted or the wider civil service.

If this information were shared, it is likely that some people may use these performance targets to substitute their own assessments of the performance of these individual members of staff. It would clearly be unfair and unwarranted for such assessments to be made in the public domain, particularly as other information from an individual's employment (such as personnel files) would not be available to make a balanced assessment of any individual's performance. It is commonly accepted that the personal performance of individual employees is for their line manager and internal systems of accountability to manage, and not the public at large.

² <https://www.legislation.gov.uk/ukpga/2000/36/section/40>

³ Art 4(1) of General Data Protection Regulation (GDPR)

I am sorry that Ofsted is unable to anonymise these performance objectives. However, we do have a legal obligation to ensure that we process personal data in line with the data protection principles set out under the GDPR; we believe that disclosure of this personal information would be in contravention of those principles. The exemption at section 40 of the FOI Act therefore applies and this does mean that we are unable to disclose this information to you.