**Freedom of Information - Humberside Fire and Rescue Service**

**2022/077 – Non-disclosure Agreements**

**The request is:**

Please state how many non-disclosure agreements with former staff at your fire brigade have been signed as part of the process of their employment being terminated in the following years:

·        2017

·        2018

·        2019

·        2020

·        2021

·        2022

    2. For each non-disclosure agreement in answer to Q1, please provide a figure for the total settlement in each case.

      3. For each non-disclosure agreement in answer to Q1, please provide the role of the individual concerned (e.g. firefighter/crew manager)

**The response is:**

Two non-disclosure agreements have been signed, both within 2020/2021. Information on these agreements can be found under Exit Packages at the bottom of page 62 of the Statement of Accounts 2020/2021 published on our website [here](https://s3.eu-west-2.amazonaws.com/server-asset-backups/humberside-fire-craft-3-assets/uploads/images/Statement-of-Accounts-2020-21.pdf).

We are unable to provide you with the information requested in part 3. above, as the disclosure of this data would breach Article 5 of the UK General Data Protection Regulations (GDPR). This is therefore exempt information under Section 40(2) of the Freedom of Information Act and this email constitutes a refusal notice.

Section 40(2) states:

### *40        Personal information.*

*(1 ) Any information to which a request for information relates is exempt information if it constitutes personal data of which the applicant is the data subject.*

*(2) Any information to which a request for information relates is also exempt information if—*

*(a) it constitutes personal data which does**not fall within subsection (1), and*

*(b) the first, second or third condition below is satisfied.*

*(3A) The first condition is that the disclosure of the information to a member of the public otherwise than under this Act—*

1. *would contravene any of the data protection principles.*

Whilst we appreciate that you were not asking for the names of those who had signed an NDA, the names, job roles and information relating to the financial circumstances of the data subjects is information that both relates to and identifies those concerned, particularly in view of the low numbers involved. This information therefore falls within the definition of ‘personal data’ in Article 4(1) of UK GDPR: *‘personal data’ means any information relating to an identified or identifiable natural person (‘data subject’)*

*Article 5(1)(a) requires the processing of personal data to be lawful, fair and transparent and we therefore considered whether one of the lawful basis for processing the data under Article 6 applied in this case.*

*Article 6(1)(f) states:*

*1.Processing shall be lawful only if and to the extent that at least one of the following applies:*

*(f) processing is necessary for the purposes of the legitimate interests pursued by the controller or by a third party, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data.*

The only relevant lawful basis of legitimate interest (f) was considered, and the staff members interests, rights and freedoms were balanced against the legitimate interest.

In considering the application of Article 6(1)(f) of the UK GDPR we looked at the following three-part test:-

i) Legitimate interest test - whether a legitimate interest is being pursued in the request for information

ii) Necessity test - whether disclosure of the information is necessary to meet the legitimate interest in question

iii) Balancing test - whether the above interests override the legitimate interest(s) or fundamental rights and freedoms of the data subject

i) We were satisfied that the request is a legitimate interest in how public money has been spent.

ii) The information online meets the legitimate interest of transparency over how public money is spent and, as such, disclosure is not necessary to meet the legitimate interest. Personal information relating to the employees would add nothing further to the legitimate interest.

iii) Necessity is not met and does not therefore require a balancing test.

In our opinion, financial transparency, and our duty to advise and assist is met by the release of the information in our public accounts and Exemption 40(2) applies.

Further information on Section 40 of the Freedom of Information Act can be found [here](https://www.legislation.gov.uk/ukpga/2000/36/section/40).

If you are unhappy with the handling of your request, you have the right to ask for an internal review. A request for an internal review should be made within 40 working days of the date of this email. If you are not happy with the outcome of the internal review, you have the right to apply direct to the Information Commissioner. The address is: Information Commissioner’s Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF.

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