

Reference: 01557316

Temiloluwa Dawodu
Information Rights Advisor
information.requests@ofcom.org.uk

10 February 2023

Freedom of Information: Right to know request

Thank you for your request for the information as detailed below. We received this request on 19 January 2023. We have considered it under the Freedom of Information Act 2000 (the “FOI Act”).

Your request

You asked:

We would like to raise a formal Freedom Of Information Request for full details of the complaint against [Cross Counties Radio], and also details of the complainant please.

Our response

We are unable to provide details of the complainant. We consider that the information you have requested, which is personal data, is exempt from disclosure under section 40(2) FOI Act, which provides that personal data which relates to persons other than the requester is exempt where, amongst other things, its disclosure would contravene any of the data protection principles in the UK General Data Protection Regulation and the Data Protection Act 2018. Those principles include that personal data must be processed fairly and lawfully. Section 40 is an absolute exemption under the FOI Act and is not subject to a public interest test.

We are also unable to provide details of the complaint as we consider that this information is exempt from disclosure under section 44(1) of the FOI Act. Section 44(1) of the FOI Act provides that information is exempt from disclosure if its disclosure is prohibited by or under any enactment. The enactment that prohibits the disclosure of this information is section 393(1) of the Communications Act 2003. Under this section, we are prohibited from disclosing information which has been obtained by us in the carrying out of our regulatory functions and none of the gateways for disclosure in section 393 of the Communications Act 2003 apply here. Section 44 is an absolute exemption under the FOI Act and does not require a public interest test.

If you have any queries, then please contact information.requests@ofcom.org.uk. Please remember to quote the reference number above in any future communications.

Yours sincerely,

Ofcom
Riverside House
2a Southwark Bridge Road
London SE1 9HA

Switchboard: +44 (0)20 7981 3000
or +44 (0)300 123 3000

www.ofcom.org.uk

Temiloluwa Dawodu

If you are unhappy with the response you have received in relation to your request for information and/or consider that your request was refused without a reason valid under the law, you may ask for an internal review. If you ask us for an internal review of our decision, it will be subject to an independent review within Ofcom.

The following outcomes are possible:

- the original decision is upheld; or
- the original decision is reversed or modified.

Timing

If you wish to exercise your right to an internal review, **you should contact us within two months of the date of this letter**. There is no statutory deadline for responding to internal reviews and it will depend upon the complexity of the case. However, we aim to conclude all such reviews within 20 working days, and up to 40 working days in exceptional cases. We will keep you informed of the progress of any such review. If you wish to request an internal review, you should contact information.requests@ofcom.org.uk.

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at:

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