

Information and Data Protection Commissioner

FOI/53/2023

Caroline Muscat

vs

Authority for Transport in Malta

FREEDOM OF INFORMATION REQUEST

1. On the 13th September 2023, Ms Caroline Muscat (the “**applicant**”) made a request pursuant to article 6 of the Freedom of Information Act (the “**Act**”), Chapter 496 of the Laws of Malta, requesting the Authority for Transport in Malta (the “**Public Authority**”) to provide a “[*list of all payments made to CEO between 1 May 2023 and the date of reply to this FOI. The list should include date per payment, scope and value and should include any payment for allowances individually such as communications, expense, fuel, car allowances etc*]” in electronic format.
2. On the 11th October 2023, the Public Authority provided the applicant with a copy of the employment contract pertaining to the post of CEO and informed the applicant that “[*a]ll payments effected are as per contract*”.
3. On the 14th October 2023, the applicant presented a complaint seeking the reconsideration of the refusal of the Public Authority on the basis that “*we did not ask for the contract*”.
4. On the 22nd November 2023, the Public Authority provided the following reply:

“We have handled this information under the Freedom of Information Act, chapter 496 of the Laws of Malta. Your request cannot be met.

This, for the following reasons, which are being adduced without prejudice to each other:

- (1) *The information requested consists of Personal Data under Article 5(3)(a) of the Act;*
- (2) *That the resources required to (i) identify, locate or collate a document or documents; (ii) examine a document or consult any person or body in relation to its possible disclosure;*

- or (iii) make a copy, or an edited copy, of a document, would substantially and unreasonably divert the resources of the Authority from its other operations.*
- (3) That the request is frivolous or vexatious or that the information requested is trivial”.*

FREEDOM OF INFORMATION APPLICATION

5. On the 22nd November 2023, the applicant applied for a decision notice pursuant to article 23(1)(a) of the Act, requesting the Information and Data Protection Commissioner (the “**Commissioner**”) to decide whether the Public Authority had dealt with the FOI request in accordance with the requirements of the Act.

INVESTIGATION

Admissibility of the Freedom of Information Application

6. After having considered that the applicant is an eligible person in terms of article 2 of the Act and the nature and background of this FOI application, together with the procedural steps involved between the applicant and the Public Authority in the request for information, the Commissioner deemed the application made by the applicant as admissible for the purpose of article 23(2) of the Act.

The Issuance of an Information Notice

7. As part of the investigation procedure, by means of an information notice dated the 24th November 2023, issued in terms of article 24(1)(a) of the Act, the Commissioner requested the Public Authority to provide information in relation to the FOI application for the purposes of enabling him to exercise his functions under the Act and to determine whether the Public Authority had complied with the requirements of the Act. In particular, the Commissioner requested the Public Authority to provide a true copy of the employment contract which was mentioned in its reply dated the 11th October 2023.
8. On the 20th December 2023, the Public Authority provided a copy of the contract of employment entered into between the Authority for Transport in Malta and the CEO dated the 30th April 2023.

LEGAL ANALYSIS AND DECISION

9. For the purpose of this legal analysis, the Commissioner sought to determine whether the Public Authority had handled the freedom of information request made by the applicant pursuant to the requirements of the Act. The applicant requested the Public Authority to provide a “[l]ist of all payments made to CEO between 1 May 2023 and the date of reply to this FOI. The list should include date per payment, scope and value and should include any payment for allowances individually such as communications, expense, fuel, car allowances etc”. The Public Authority provided the applicant with a copy of the employment contract pertaining to the CEO and submitted that all the payments made by the Public Authority are pursuant to the employment contract.
10. As part of the investigation of the FOI application, the Commissioner requested the Public Authority to provide a copy of the employment contract in order to assess whether its reply dated the 11th October 2023 meets the terms of the request. For this purpose, the Commissioner examined the contents of the employment contract, particularly, clause 4 which contains information in relation to the gross yearly remuneration including annual performance bonus, allowance per annum and benefits. Furthermore, the Commissioner considered the fact that the Public Authority informed the applicant in its reply dated the 11th October 2023 that “[a]ll payments effected are as per contract”. This therefore leads the Commissioner to conclude that the information contained in clause 4 of the employment contract meets the terms of the freedom of information request.

On the basis of the foregoing considerations, pursuant to article 23(3)(b) of the Act, the Commissioner is hereby serving a decision notice and deciding that the reply provided by the Public Authority on the 11th October 2023 meets the terms of the request of the applicant, and therefore, the Public Authority handled the request pursuant to the requirements of the Act.

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**Ian Deguara
Information and Data Protection Commissioner**

Right of Appeal

In terms of article 39(1) of the Act “[w]here a decision notice has been served, the applicant or the public authority may appeal to the Tribunal against the notice within twenty working days”.

An appeal to the Information and Data Protection Appeals Tribunal shall be made in writing and addressed to:

The Secretary
Information and Data Protection Appeals Tribunal
158, Merchants Street
Valletta.