

Department/Organisation: Marine Department (“MD”)
Case concluded in: September 2015

MD refused to provide Mr A with the list of members of its Disciplinary Panel

The Event

While serving as an Authorised Surveyor of MD, Mr A had received warning letters from MD in respect of his performance in carrying out vessel inspections. Subsequently, MD convened a Disciplinary Panel (“Panel”) meeting to consider whether any disciplinary action should be taken against Mr A. However, Mr A was not allowed to attend the meeting. After deliberation, the Panel decided to suspend Mr A’s credentials as Authorised Surveyor. Mr A appealed against that decision, and asked for the list of Panel members to check if they were fully qualified to make proper judgement.

Regarding Mr A’s request for the personal data of Panel members, MD considered that disclosing the personal data of the two non-official members of the Panel would exceed the purpose for which the data had been collected, and the two members in question did not consent to having their names disclosed. Therefore, MD cited paragraphs 2.15(a) and (b) of the Code on Access to Information (“the Code”) to refuse disclosure of the information to Mr A.

Our Findings

We considered that since the Panel’s decision had a significant impact on Mr A, it was not unreasonable of him to seek to know who made that decision. In fact, most Government-appointed panels or consultative bodies have made available to the public their lists of members (including non-official members). Hence, we found it untenable for MD to rely on paragraphs 2.15(a) and (b) of the Code for non-disclosure of information to Mr A. With regard to handling of disciplinary matters relating to Authorised Surveyors, disclosing the information on members of the Panel would enable people to assess whether those members were fit and proper persons to discuss Mr A’s case. Furthermore, we could not see any substantive harm or prejudice that would be caused to those members by disclosing such information. We, therefore, considered paragraph 2.15(d) of the Code applicable to this case: “the public interest in disclosure outweighs any harm or prejudice that would result”.

Outcome

We recommended that MD reconsider Mr A’s request for information. MD undertook to comply with the Personal Data (Privacy) Ordinance and the Code in handling requests for access to information, and would seek legal advice where necessary.