

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 3 March 2023

Public Authority: Rochdale Borough Council
Address: Number One Riverside
Smith Street
Rochdale
OL16 1XU

Decision (including any steps ordered)

1. The complainant has requested information about Rochdale Borough Council's correspondence. The above public authority ("the public authority") relied on section 40(5a) of FOIA to refuse to confirm or deny that information was held.
2. The Commissioner's decision is that the public authority was entitled to rely on section 40(5a) of FOIA to refuse to confirm or deny whether any information was held.
3. The Commissioner does not require further steps.

Request and response

4. On 11 December 2021, the complainant made the following request for information to the public authority:

"1.a) Please provide the number of emails and also letters of enquiry from Rochdale Metropolitan Borough residents received by, or on behalf of, Julie Murphy, doing business as the 'Chief Finance Officer', between 01/11/2021 until 01/12/2021.

b) Please provide the total of these emails and also letters responded to by, or on behalf of, Julie Murphy doing business as the 'Chief Finance Officer'.

c) Please provide the average response time, in days, for this total of responses to emails and also letters.

d) If the total received and the total responded are not equal, please provide list of the reasons for this, with totals for each reason.

2.a) Please provide the number of legal notices from Rochdale Metropolitan Borough residents received by, or on behalf of, Julie Murphy doing business as the 'Chief Finance Officer' between 01/11/2021 until 01/12/2021.

b) Please provide the total of these legal notices responded to by, or on behalf of, Julie Murphy doing business as the 'Chief Finance Officer'.

c) Please provide the average response time, in days, for this total of responses to these legal notices.

d) If the total received and the total responded to are not equal, please provide list of the reasons for this with totals for each reason.

5. The public authority responded on 14 January 2022 and applied Section 12 of FOIA to part of the request, and stated the number of legal notices received as zero.

6. On 26 January 2022, the complainant then refined their request as follows:

"Please provide the time it would normally take to acknowledge and respond to the following letter, certified as delivered by the Post Office, 'signed for' references provided. The signatories can be verified at <https://www.royalmail.com/track-youritem#/>

Please be aware all packages and contents where strictly addressed 'FAO Julie Murphy' and marked as 'Private and Confidential'.

1. Cover letter, received 14/11/2021 – PO ref (redacted)

Whereas: Question 2

"There have been no legal notices from Rochdale Metropolitan Borough residents received by, or on behalf of, Julie Murphy doing business as the 'Chief Finance Officer' between 01/11/2021 until 01/12/2021"

It is observed that there has been an error on your part and to assist in correcting this the following Lawful Notices and the Post Office certified delivery reference is provided to aid in this being corrected. The signatories can be verified at <https://www.royalmail.com/track-your-item#/>

Please be aware all packages and contents where strictly addressed 'FAO Julie Murphy' and marked as 'Private and Confidential'.

1. Notice of Understanding and Intent – 04/11/2021 - PO ref (redacted)
2. Notice of Default – 01/12/2021 - PO ref (redacted)
7. At internal review, confirmation or denial of holding the information would be exempt under section 40(5A) of the FOIA.

Reasons for decision

8. The following analysis explains why the Commissioner is satisfied that the public authority was entitled to neither confirm nor deny holding the information that had been requested.
9. Section 40(5A) allows a public authority to refuse to confirm or deny if it holds particular information if that information would (if it existed) be the personal data of the person making the request.
10. In clarification of their request, the complainant asked for details of two specific letters for which he provided tracking numbers and other information about their contents.
11. Any information the public authority held would, by the parameters of the request, relate to the specific letters described in his request, and would therefore constitute personal data of the requester.
12. Furthermore, in merely confirming that it held any information within the scope of the request, the public authority would also, by definition, be confirming, to the world at large (which is what FOIA requires) that these letters had been received, along with the specific nature of the letters.
13. However, were the public authority to hold information that constituted the personal data of the requester, this information would be exempt from disclosure under section 40(1) and therefore, under section 40(5A), the public authority is not required to confirm or deny whether it holds it.
14. The Commissioner's decision, therefore, is that the public authority were correct to neither confirm or deny holding information within the scope of this request.

Right of appeal

15. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals,
PO Box 9300,
LEICESTER,
LE1 8DJ

Tel: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

16. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
17. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Signed

Joanna Marshall
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF