

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 19 January 2023

**Public Authority:** City of Bradford Metropolitan District Council

**Address:** Britannia House  
Hall Ings  
Bradford  
BD1 1HX

#### **Decision (including any steps ordered)**

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1. The complainant requested information from City of Bradford Metropolitan District Council ("the Council") relating to a fraud investigation.
2. The Commissioner's decision is that the Council is entitled to rely on section 40(5A) to refuse to confirm or deny whether it holds information which falls within the scope of the request.
3. However, he also finds that the Council breached section 10(1) (time for compliance) of FOIA by failing to respond to the request within the statutory timeframe of 20 working days.
4. The Commissioner does not require the Council to take any steps.

## Request and response

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5. On 6 May 2023, the complainant wrote to the Council and requested information in the following terms:

"On the 14th of November 2018, a user by the name of [name redacted] made the following request via the WhatDoTheyKnow website:

<https://www.whatdotheyknow.com/request/d...>

On the 27th of December 2018, you had responded to the first question as follows :

Question 1 - How many times have a resident of the la been done for fraud against them and fined or jailed 2012 to 2018. This relates to direct care payments.

Response – A resident within the local authority has been fined x1 and jailed x1.

The individual your response relates to is obviously myself. In this regard, I have the following questions

Q1. What date had the investigation commenced?

Q2. How long was this matter investigated for?

Q3. How much public fund of the ratepayer's money had been spent in investigating and securing this criminal conviction?

Q4. How much money in total had been recovered as part of this investigation and criminal conviction?

Q5. How much money had been returned to the residential victims of this crime?"

6. The Council responded on 28 June 2023 and provided the complainant with information in response to parts 1 and 2 of the request. It denied holding the information requested in parts 3 and 4 of the request and refused to provide the information requested in part 5 of the request citing section 40(2) (personal information) of FOIA as its basis for doing so.
7. On 25 July 2023 the complainant requested an internal review. The Council provided the complainant with the outcome of its internal review on 21 August 2023 in which it maintained its position.

8. The Council provided the complainant with a further response to the request on 22 August 2023 in which it maintained its position in relation to parts 3, 4 and 5 of the request. However, the Council amended its response to part 1 of the request by correcting the date that the investigation commenced.

### **Scope of the case**

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9. The Council has provided the complainant with information in response to parts 1 and 2 of the request, denied holding the information requested in parts 3 and 4 of the request and has applied section 40(2) of the FOIA to refuse to provide the information requested in part 5 of the request. However, the Commissioner has discretion to proactively consider exemptions that have not been relied on by a public authority.
10. The Commissioner will therefore consider whether the Council is entitled to rely on section 40(5A) to refuse to confirm or deny whether it holds information which falls within the scope of the request.

### **Reasons for decision**

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11. Section 40(5A) of FOIA states that a public authority does not have to confirm or deny that requested information is held, if doing so would disclose the requester's personal data.
12. Section 3(2) of the Data Protection Act 2018 ("the DPA") defines personal data as:  
  
"any information relating to an identified or identifiable living individual."
13. The two main elements of personal data are that the information must relate to a living person and that the person must be identifiable.
14. The Commissioner considers that by confirming or denying that it held information within the scope of the request, the Council would confirm to the world at large whether or not the complainant had been investigated for fraud. This would be the personal data of the complainant.
15. Therefore, the Commissioner's decision is that the Council is entitled to rely on section 40(5A) to refuse to confirm or deny whether it holds the requested information as doing so would disclose the personal data of the complainant.

## **Procedural matters**

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### **Section 10 – Time for compliance**

16. Section 1(1) of FOIA states that:

“Any person making a request for information to a public authority is entitled –

(a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and

(b) if that is the case, to have that information communicated to him.”

17. Section 10(1) of FOIA states that a public authority must respond to a request promptly and “not later than the twentieth working day following the date of receipt”.

18. In this case, the complainant submitted their request for information to the Council on 6 May 2023 and the Council did not respond until 28 June 2023. Therefore, the Commissioner finds that the Council breached section 10(1) of FOIA by failing to respond to the request within 20 working days.

## Right of appeal

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19. 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](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

20. 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.
21. 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 .....**

**Victoria James**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**