

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

### **Decision notice**

**Date:** 22 December 2022

**Public Authority:** London Borough of Enfield  
**Address:** Civic Centre  
Silver Street  
Enfield  
Middlesex  
EN1 3XF

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

---

1. The complainant has requested from the London Borough of Enfield (the Council) information relating to disputed council fees.
2. The Commissioner's decision is that the Council should have relied on section 40(5B) of FOIA to refuse to confirm or deny whether any information was held and has applied this exemption himself proactively.
3. The Commissioner does not require the Council to take any steps as a result of this notice.

#### **Request and response**

---

4. On 15 February 2022, the complainant wrote to the Council and requested information in the following terms:
  - "1. Evidence of the number of complaint letters the council have received and proof of their responses in the case of the estate of [redacted].
  2. All internal emails between Enfield council staff in the above case regarding delays and why there was a delay of over a year in contacting the [redacted] and [redacted] family after the death of [redacted] regarding council fees.

3. A copy of the first invoice of Enfield council fees sent to [redacted] a year and four months after the death of [redacted].
4. Copies of signed contracts where either [redacted] or [redacted] agreed to pay disputed council fees.”
5. The Council responded on 16 March 2022. It disclosed some information within the scope of the request but refused to provide the remainder, citing section 40(2) (personal information) as its basis for doing so.
6. The complainant asked the Council to conduct an internal review on the basis that they were dissatisfied with the Council’s response to part four of the request where it had relied on section 40(2) to refuse to disclose the requested information.
7. Following an internal review the Council wrote to the complainant on 17 May 2022. It amended its position and stated that it does not hold the information at part four of the request.

## **Reasons for decision**

---

8. Part four of the request refers to contractual agreements between the Council and two named individuals. Simply confirming or denying that the contracts sought by this part of the request were held would clearly disclose personal information about those two named individuals – because it would reveal to the world at large whether those individuals had entered into a contractual relationship with the Council.
9. The Commissioner recognises that the complainant has strong personal reasons for pursuing this matter. Whilst he sympathises with those reasons, he does not consider that they justify revealing personal information to the world at large – which is what FOIA requires a public authority to do. It is not a private transaction to the requester, and therefore not an appropriate avenue for revealing whether personal information is held.
10. The Commissioner is further satisfied that the named individuals could seek the disclosure of any of their own personal information held by the Council if they so wish via a Subject Access Request, which would be a private transaction between the Council and the data subject, rather than a disclosure to the world at large. Therefore issuing a confirmation or a denial is not necessary to achieve the private legitimate interest identified by the complainant and the Commissioner can see no broader legitimate interest in confirming whether this information is or is not held.

11. The Commissioner is satisfied that there would be no lawful basis in data protection law for the Council to confirm, to the world at large, whether it does or does not hold contracts signed by the named individuals.
12. The Commissioner is therefore of the view that the Council should have neither confirmed nor denied whether it held the information at part four of the request, and he now applies this exemption himself in order to prevent any further disclosure of personal data.

## Right of appeal

---

13. 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)

14. 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.
15. 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 .....**

**Catherine Fletcher**  
**Team Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**