

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

### **Decision notice**

**Date:** 22 February 2023

**Public Authority:** Wigan Metropolitan Borough Council  
**Address:** Town Hall  
Library Street  
Wigan  
WN1 1YN

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

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1. The complainant has requested information about the sale of council owned property under the Right to Buy scheme. Wigan Metropolitan Borough Council ('the Council') disclosed much of the requested information, but refused to disclose the full postcodes of the properties in question, on the grounds that the information was exempt under section 40(2) (Personal information) of FOIA.
2. The Commissioner's decision is that the Council was entitled to apply section 40(2) to refuse the request.
3. The Commissioner requires no steps as a result of this decision.

#### **Request and response**

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4. Prior to making the request in this case, on 21 May 2022, the complainant wrote to the Council and requested the following information:

"Information of housing stock which has been sold in the Hindley and Hindley Green between 2000 to May 2022 areas under the right to buy scheme, Housing Act 1985 Include Number of applications which have been granted including addresses. Number of applications which have been granted and sold with price including addresses. Number of applications which have been refused including addresses."

5. The Council disclosed some information, but it refused to disclose full postal addresses on the grounds that section 40(2) applied. On 1 June 2022, the complainant clarified the request, as follows:

"I am asking for information relating to property types i.e. Detached houses, semi-detached houses, detached bungalows and semi-detached bungalows and any other categories in the Hindley and Hindley Green area that have been granted the right to buy and properties that have been denied. Full post codes will be sufficient without door numbers will be fine."

6. Both parties agreed that this would be treated as a new FOIA request.
7. The Council responded on 4 July 2022, providing the complainant with a spreadsheet, showing area, property type, application and completion dates, valuation, discount and purchase price information. However, it only disclosed the first half of the postcode for each entry.
8. The complainant requested an internal review of the Council's failure to provide the full postcode for each entry. The Council's decision was that the full postcodes constituted personal data and were exempt from disclosure under section 40(2) of FOIA. It told the complainant:

"...in circumstances where only a small number of properties are included within a postcode, individual properties may be identified by revealing the full postcode together with the information already provided in the spreadsheet."

## **Reasons for decision**

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9. The analysis below considers the Council's application of section 40(2) to withhold the postcodes in their entirety.
10. It is the Commissioner's established position that a full postcode can be categorised as personal data because someone who is motivated to do so could apply their local knowledge and employ investigative techniques to identify specific individuals from those postcodes (see for example, his decision in FER0754377<sup>1</sup> and FS50704419<sup>2</sup>). The Tribunal has also previously considered the question of whether postcodes are

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<sup>1</sup> <https://ico.org.uk/media/action-weve-taken/decision-notices/2018/2553920/fer0754377.pdf>

<sup>2</sup> <https://ico.org.uk/media/action-weve-taken/decision-notices/2018/2258620/fs50704419.pdf>

personal data in *Dundas v ICO & City of Bradford*<sup>3</sup> and found that a full postcode should indeed be considered personal data.

11. The Council has provided submissions to the Commissioner which show that the postcodes relate to small numbers of properties. It has also explained to the Commissioner how, by cross matching the full postcodes with other information in the public domain, and with information previously disclosed in the spreadsheet, the identification of the property owners could be achieved.
12. Having had regard to the above, and to his published Anonymisation code of practice<sup>4</sup>, the Commissioner is satisfied in this case that the full postcodes are the personal data of the property owners ('the data subjects').
13. The next step is to consider whether the disclosure of this personal data would be in breach of any of the data protection principles. The Commissioner has focussed on principle (a), which states:

"Personal data shall be processed lawfully, fairly and in a transparent manner in relation to the data subject."
14. In the case of an FOIA request, personal data is processed when it is disclosed in response to the request. This means that the information can only be disclosed if to do so would be lawful, fair and transparent.
15. When considering whether the disclosure of personal information would be lawful, the Commissioner must consider:
  - whether a legitimate interest is being pursued in the request for information;
  - if so, whether disclosure is necessary to meet the legitimate interest in question; and
  - whether those interests override the rights and freedoms of the data subjects.
16. The complainant has not explained to the Commissioner his reasons for wanting the information. However, the Commissioner recognises that

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<sup>3</sup><https://informationrights.decisions.tribunals.gov.uk/DBFiles/Decision/i128/Dundas.pdf>

<sup>4</sup> <https://ico.org.uk/media/for-organisations/documents/1061/anonymisation-code.pdf>

the purpose of FOIA is to promote public authority transparency and accountability. He considers that there is a broad legitimate interest in the Council being transparent and accountable with regard to the disposal of public housing stock under the Right to Buy scheme. Disclosure of information on individual sales would allow the public to assess whether value for money had been achieved and whether the scheme had been applied fairly. The Commissioner is satisfied that disclosure of the requested information is necessary to meet that legitimate interest.

17. Turning to whether that interest is sufficiently strong to override the rights and freedoms of the data subjects, the Commissioner considers that the individuals concerned are likely to have a strong expectation of privacy relating to the requested information. HM Land Registry<sup>5</sup> states that information on Right to Buy sales is excluded from its Price Paid Dataset, which is the main source of property sales information in the public domain. The information would also reveal the valuation figure of each property and the tenant discount subsequently agreed between individual purchasers and the Council. The Commissioner considers that the data subjects are entitled to regard such information as confidential, and to expect to retain control over who may have access to it.
18. Based on the above factors, in this case the Commissioner has determined that the legitimate interests in disclosure are not strong enough to outweigh the data subjects' fundamental rights and freedoms. Therefore, he considers that there is no legal basis for the Council to disclose the requested information, and that to do so would be in breach of data protection principle (a).
19. The Commissioner's decision is therefore that the Council was entitled to rely on section 40(2) of FOIA to refuse to disclose the postcodes in their entirety.

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<sup>5</sup><https://landregistry.data.gov.uk/app/root/doc/ppd#:~:text=There%20are%20a%20number%20of,way%20of%20gift%20or%20exchange>

## Right of appeal

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20. 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: 0300 1234504  
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)

21. 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.
22. 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 .....**

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