

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 23 October 2024

Public Authority: Armagh City Banbridge and Craigavon
Borough Council

Address: Civic Building
Downshire Road
Banbridge
BT32 3JY

Decision (including any steps ordered)

1. The complainant has requested information regarding a complaint submitted to Armagh City Banbridge and Craigavon Borough Council (the Council).
2. The Commissioner's decision is that the information, if it were held, would be the complainant's own personal information. The Council was therefore entitled to rely on section 40(5A) of FOIA to refuse to confirm or deny that this information was held.
3. The Commissioner does not require further steps to be taken.

Request and response

4. On 6 March 2024, the complainant wrote to the Council and requested information in the following terms:

"I would like to [request] from you the following information regarding an investigation that [name redacted] and [name redacted] carried out following a complaint that was made by myself on the 25/07/18...

I would like to request under FOI legislation what was the findings of the investigation, and was any disciplinary action taken against the

- named ABC COUNCIL employee [named redacted] who had perpetrated this heinous and grossly inappropriate and offensive act.”
5. The Council responded on 27 March 2024. It stated that it could neither confirm nor deny holding the requested information and cited section 40(5)(A) when doing so.
 6. During the Council’s internal review, it advised the complainant that the correct section which should have been cited was section 40(5)(B) rather than section 40(5)(A).

Reasons for decision

7. Section 40(5A) of FOIA allows a public authority to refuse to confirm or deny that it holds any information that is, or, if it were held, would be, the personal information of the person requesting it.
8. Having reviewed the request for information from the complainant, the Commissioner is satisfied that the information, if held, would relate to the complainant’s own personal data.
9. The request relates to a complaint that was allegedly made by the complainant. The complainant states in their request that the complaint was made about a Council employee and they understood that an investigation into the complaint was to take place. The complainant advised the Commissioner that they have not received the findings of the investigation. It is this outcome which the complainant is seeking.
10. The Commissioner considers that this information, if it were held, would have the complainant as its focus. This is because the information would relate directly to the complainant, their complaint and any decisions the Council made about that complaint. It would therefore be the complainant’s own personal information. By confirming or denying that information was held, the Council would also be revealing publicly that the complainant had (or had not) raised a complaint about a particular subject
11. Some of the information may be **both** the complainant’s personal information **and** the personal information of others. However, this is irrelevant for the purposes of the exemption. If the information is the requester’s personal information, regardless of whether it is solely their personal information, the exemption will apply.
12. If the exemption applies, the public authority does not need to consider the public interest or the wishes of the requester.

13. The public authority was therefore entitled to rely on section 40(5A) of FOIA to refuse to confirm or deny that the information was held.

Right of appeal

14. 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

15. 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.
16. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Roger Cawthorne
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF