

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

### **Decision notice**

**Date:** 23 April 2025

**Public Authority:** Steeple Morden Parish Council  
**Address:** [clerk@steeplemorden-pc.gov.uk](mailto:clerk@steeplemorden-pc.gov.uk)

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

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1. The complainant has requested information in relation to complaints or unsubstantiated claims regarding them made to Steeple Morden Parish Council ("the Council"). The Council refused the request, citing section 40(2) of FOIA – personal information.
2. The Commissioner's decision is that the requested information relates to the complainant's own personal information and would be exempt under section 40(1) of FOIA.
3. The Commissioner does not require further steps.

#### **Request and response**

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4. On 19 August 2024, the complainant wrote to the Council and requested information in the following terms:

"Under the Freedom of Information Act, I would like to request the following information:

I wish to receive copies of all correspondence received by Steeple Morden Parish Council that relate to complaints and unsubstantiated allegations that lead to my position on the Parish Council being made untenable. This would have been anything received between 1st August 2023 to April 2024.

I would like you to provide the information in the following format:  
Please provide electronic copies of the correspondence which can be sent to me via email..."

5. The Council responded on 9 September 2024. It stated that it was withholding the requested information, citing section 40 of FOIA – personal information. It did not state which sub-section of section 40 it was relying on. Section 40 covers both personal information relating to the requester and the personal information of third parties.
6. The Council did carry out an internal review but only provided this to the Commissioner. The Commissioner did ask for an internal review response to be sent to the complainant. However, the Council has not done this, explaining that the internal review itself contains personal information. Within the internal review, the Council advised that it was relying on section 40(2) of FOIA.

### **Scope of the case**

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7. The complainant contacted the Commissioner on 10 November 2024, to complain about the way their request for information had been handled.
8. The Commissioner has used his discretion to determine whether the request is a request for the complainant's own personal data.

### **Reasons for decision**

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9. Section 40(1) of the FOIA provides that any information to which a request for information relates, is exempt information if it constitutes personal data of which the requester is the data subject.
10. The Commissioner's guidance is clear that a requestor's own personal data should not be disclosed under FOIA or the EIR. Instead, public authorities should handle this aspect of the request as a subject access request (SAR) under the UK GDPR or the DPA, as applicable.
11. This reasoning covers why the Commissioner has determined that the requested information would be the complainant's own personal data and therefore, exempt from disclosure under section 40(1) of FOIA.
12. Section 3(2) of 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. An identifiable living individual is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of the individual.
15. Information will relate to a person if it is about them, linked to them, has biographical significance for them, is used to inform decisions affecting them or has them as its main focus.
16. The Commissioner has viewed the request and is satisfied that it relates to, and would identify the complainant. Any information the Council were to disclose in response would therefore, by definition, also be the complainant's own personal data. It both identifies the complainant and relates to a decision made either by or about the complainant.
17. The Commissioner's conclusion is therefore that the requested information is the complainant's own personal data and it is exempt from disclosure under section 40(1) of FOIA.
18. Section 40(1) is an absolute exemption and there is no requirement for the Commissioner to consider the public interest. He is also not required to consider whether or not the complainant would be content to have their personal data disclosed to the world at large.
19. The fact that the information may also be the personal data of third parties, as well as the complainant, is irrelevant for FOIA purposes. If the information is the complainant's personal information, it is exempt under FOIA and no further consideration is required under that legislation.

## **Other matters**

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20. In this case, the Commissioner is not aware if the Council recognised that the complainant had requested their own personal data and does not know if it has considered the request under the Data Protection Act 2018 (the DPA).
21. Whilst the Commissioner cannot require a public authority to take action under the DPA via a FOIA decision notice, in view of his decision that the requested information is the personal data of the complainant, the Council should consider providing a response to the complainant under the DPA in respect of the information they requested.
22. The Commissioner would point out that this does not necessarily mean that the complainant is entitled to receive any information. There are a number of reasons why a data controller may be entitled to withhold

information from disclosure under the DPA. In particular the public authority will need to consider the extent to which the information is also the personal data of third parties and to balance the rights of those individuals in accordance with the DPA.

23. The Commissioner also wants to add that whilst an internal review is not a requirement of FOIA, it is good practice to carry out a review, when requested and to provide a copy of the outcome to the requester.
24. The Commissioner wants to take this opportunity to also advise the Council that it should answer his questions candidly and in full. The Commissioner tries to minimise the burden on public authorities, but there is certain information he requires in order to ensure himself that the request has been handled correctly.
25. If public authorities fail to provide answers that adequately address the questions posed by the Commissioner, there is a much higher risk of him concluding that the public authority has failed to comply with FOIA.

## **Right of appeal**

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26. 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)

27. 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.
28. 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**