

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 7 May 2026

Public Authority: City of York Council
Address: West Offices
Station Rise
York
YO1 6GA

Decision (including any steps ordered)

1. The complainant submitted a multi-part request for information from City of York Council (the "council") about its membership of Stonewall, related expenditure, and internal consideration of safeguarding concerns and single-sex services. The council disclosed some information, stated some was not held, and withheld other information under sections 21 and 36 of FOIA.
2. The Commissioner's decision is that:
 - Part 1: Section 21 was correctly applied; however, the council breached section 16 by failing to provide adequate advice and assistance in its initial response. This was remedied during the investigation.
 - Part 2: Some information constitutes the complainant's personal data and is exempt under section 40(1). Section 36(2)(b)(i), (ii) and (c) are engaged in respect of all remaining non-personal information within scope of part 2, and the public interest favours maintaining the exemption.
 - Part 6: The council complied with section 1(1) by correctly confirming that no information was held.
 - Part 7: The council breached sections 1(1) and 10(1) by incorrectly stating that no information was held and only correcting this during

the investigation. Some information constitutes the complainant's own personal data and is exempt under section 40(1); no steps are required in respect of that information.

3. The Commissioner does not require the council to take any steps.

Background

4. From March 2023 onwards, the complainant raised safeguarding concerns with the council regarding the provision of single-sex services and facilities, particularly toilets and changing rooms. The complainant contended that allowing access on the basis of gender identity rather than biological sex posed safeguarding risks and was inconsistent with the Equality Act 2010.
5. Those concerns were pursued through extensive correspondence with officers and councillors, formal complaints, and engagement with external service providers delivering services on the council's behalf. The complainant also questioned the council's continued membership of Stonewall and the influence of external equality guidance on council practice.
6. The council considered these issues internally. This included legal advice, senior officer deliberation, and internal discussion of how to respond to the complainant's correspondence and related enquiries. The present request arose directly from this context.

Request and response

7. On 4 May 2025, the complainant wrote to the council and requested a range of information relating to the council's membership of Stonewall and its position in relation to safeguarding in the context of the provision of single-sex services. The full text of the request appears in the annex to this notice.
8. The council responded on 4 June 2025. It disclosed some information and confirmed that other information wasn't held. It also withheld some information under the exemptions in section 21 (information accessible via other means) and section 36 (prejudice to the effective conduct of public affairs).
9. Following an internal review the council wrote to the complainant on 10 July 2025. The internal review disclosed some additional information and

confirmed that the council was maintaining its reliance on section 21 and section 36 to withhold information.

Scope of the case

10. On 16 July 2025 the complainant contacted the Commissioner to complain about the way their request for information had been handled.
11. During the Commissioner's investigation the council issued a new response to the complainant. In relation to part 1 of the request, which had been withheld under section 21, the council provided the complainant with detailed instructions as to how to access the information from its website. In relation to part 7 of the request, the council confirmed that the only information held consisted of an email sent by the complainant to the council.
12. The Commissioner has considered:
 - the application of section 21 to part 1;
 - whether information was held for parts 6 and 7;
 - compliance with sections 1 and 10;
 - the application of section 36 to part 2; and
 - whether information constitutes the complainant's personal data under section 40.

Reasons for decision

Part 1 of the request – section 21 (information accessible by other means)

13. Section 21(1) of FOIA provides that information is exempt if it is reasonably accessible to the applicant otherwise than under FOIA. The exemption is absolute and therefore not subject to the public interest test.
14. Where an authority relies on section 21, it remains under a duty, by virtue of section 16 of FOIA, to provide reasonable advice and assistance to help an applicant locate and access the information.
15. In response to part 1 of the request, the council relied on section 21. It stated that information relating to its membership of Stonewall was

already publicly available, including through published reports and publicly accessible webpages. The council confirmed that it is a member of Stonewall and directed the complainant to its published "All Payments to Suppliers" dataset, indicating that relevant information could be identified by filtering that dataset.

The Commissioner's analysis

16. The Commissioner is satisfied that information about payments to Stonewall is, in principle, reasonably accessible to the complainant via the council's published payments dataset and that section 21 is therefore engaged in respect of the spending element of part 1.
17. However, at the time of its response, the council provided only high-level signposting to a large dataset without clearly addressing whether that dataset fully captured the information requested, or explaining with sufficient clarity how the complainant could identify the specific spending falling within scope.
18. The Commissioner therefore considers that, at the time of the request, the council did not provide the level of targeted advice and assistance required to meet its duty under section 16.
19. During the Commissioner's investigation, the council provided further clarification about the scope of the dataset and how the relevant expenditure information could be identified. This remedial action satisfied the Commissioner that the complainant was ultimately able to understand how to access the information.
20. The Commissioner finds section 21 engaged in respect of the spending data. However, the council's initial signposting was insufficiently specific and therefore breached section 16. The Commissioner is satisfied that this was remedied during the course of the investigation.

Analysis of request parts 6 and 7 – whether information was held

Request part 6

21. Request part 6 asked for records in which the Leader of the council was informed of, or invited to attend, a protest organised by representatives of the LGBT Forum, and records explaining how a decision was made for the Leader to participate.
22. The council submitted that:
 - any invitation to attend the protest was sent to Councillor Claire Douglas in her capacity as Labour Party leader, not as Leader of the Council;

- the email invitation was held by Councillor Douglas in her political capacity only;
 - on that basis, the information was not held by the Council for the purposes of FOIA.
23. The council explained that it contacted Councillor Douglas during the Commissioner's investigation to understand the capacity in which the email had been received, and that it concluded the information was not held by the Council.
24. The Commissioner has considered these submissions carefully. Based on the evidence provided, the Commissioner is satisfied that:
- the invitation email was sent to the Councillor as a political figure rather than as part of her council role;
 - the council did not hold the invitation email within its corporate records or information systems at the time of the request;
 - the council's explanation of capacity is internally consistent and supported by the chronology.
25. Accordingly, the Commissioner finds that, in relation to request part 6, the council correctly confirmed that it did not hold recorded information for the purposes of section 1(1) of FOIA.

Request part 7

26. Request part 7 asked for records in which Councillor Douglas was explicitly asked not to allow the council to be associated with the LGBT Forum or the protest.
27. The council initially responded that no information was held, on the basis that relevant correspondence was held by the Councillor in a political rather than council capacity.
28. During the Commissioner's investigation, however, the council:
- identified and reviewed additional emails sent to Councillor Douglas;
 - accepted that at least one email from the complainant fell within scope and constituted recorded information held by the council.
 - acknowledged that this email was, on reflection, information held by the council.

29. The council indicated that it was prepared to issue a further response confirming that the only information held falling within the scope of request part 7 was the complainant's own email.
30. The Commissioner considers that this constitutes clear evidence that recorded information was held by the council at the time of the request and fell within the scope of request part 7.
31. Accordingly, the Commissioner finds that the council was incorrect to state originally that no information was held in relation to request part 7.

Conclusions in relation to sections 1 and 10

32. Section 1(1) of FOIA requires a public authority to confirm or deny whether it holds requested information and, if so, to communicate that information unless an exemption applies.
33. In relation to request part 6, the Commissioner finds that the council complied with section 1(1) by correctly confirming that it did not hold the information.
34. In relation to request part 7, the Commissioner finds that the council failed to comply with section 1(1) by stating that no information was held when, in fact, relevant recorded information was held. As the council only corrected its position during the Commissioner's investigation, the council also breached section 10(1).

Personal data: section 40(1) (parts 2 and 7)

35. The Commissioner has considered the application of section 40(1) before turning to section 36. This reflects the statutory structure of FOIA and the Commissioner's [guidance](#), which makes clear that where requested information constitutes the requester's own personal data, it is exempt under section 40(1) and falls to be dealt with under the UK GDPR/Data Protection Act 2018 access regime rather than FOIA.
36. In those circumstances, there is no requirement to consider other exemptions in respect of that information. The Commissioner has therefore first identified and excluded any information that is the complainant's personal data, and has considered section 36 only in relation to the remaining non-personal information within scope.

The legal framework

37. Parts 2 and 7 arise directly from a complaint made by the complainant to the council, including safeguarding concerns raised at a council

meeting and subsequent correspondence with officers and members. In cases of this nature, it is inherently likely that:

- internal records created in response to the complaint will identify the complainant by name or by clear inference;
- those records will summarise, characterise or evaluate the complainant's concerns, allegations, views or actions; and
- the information will therefore be biographically significant to the complainant, even where it is framed as internal discussion or background context.

Application to request part 2

38. Part 2 sought internal council records relating to Stonewall membership and access to single-sex services arising from safeguarding concerns raised by the complainant. The withheld information includes internal correspondence and records which:

- identify the complainant by name or make her readily identifiable;
- summarise or discuss the safeguarding concerns she raised; and
- record officers' consideration of how those concerns should be addressed.

39. To the extent that this material records information about the complainant's actions, views, or the council's handling of her specific complaint, it is biographically significant and constitutes her own personal data for the purposes of section 40(1). The Commissioner is therefore satisfied that some of the information within scope of part 2 falls within section 40(1).

Application to request part 7

40. Part 7 sought records in which the Leader was asked not to allow the council to be associated with the protest. The Commissioner has found elsewhere in this notice that the council held information within scope of part 7, including correspondence sent by the complainant directly to the Leader. Where information within scope of part 7 consists of correspondence authored by the complainant, that information plainly identifies the complainant and records matters specific to them. It therefore constitutes the complainant's own personal data for the purposes of section 40(1).

Conclusion on section 40

41. Given the request arises from the complainant's own safeguarding complaint, it is inherently likely that internal records identify them or record their actions and views.
42. The Commissioner finds that:
 - some information within scope of part 2 comprises analysis and handling of the complainant's case and is therefore their personal data;
 - information within part 7 consisting of the complainant's own correspondence is plainly their personal data.
 - That information falls within section 40(1) and is not subject to disclosure under FOIA.
43. The Commissioner therefore considers section 36 only in relation to the remaining non-personal information within scope of part 2.

Section 36 – prejudice to the effective conduct of public affairs

44. Section 36(2) applies where, in the reasonable opinion of a qualified person, disclosure would or would be likely to:
 - inhibit the free and frank provision of advice (section 36(2)(b)(i));
 - inhibit the free and frank exchange of views (section 36(2)(b)(ii)); or
 - otherwise prejudice the effective conduct of public affairs (section 36(2)(c)).
45. It is a qualified exemption subject to the public interest test.

The role of the qualified person

46. FOIA requires that the opinion that engages section 36 must be that of a qualified person. The Commissioner's role is not to determine whether he agrees with that opinion, but to consider whether:
 - the opinion was given by a person who is properly authorised; and
 - the opinion is reasonable, in the sense that it is one that a reasonable person could have reached on the facts.

The qualified person's opinion

47. The council provided a written opinion from its Monitoring Officer, who is the council's qualified person for the purposes of section 36(5). The opinion was sought and given on 27 May 2025, prior to the council's reliance on the exemption.
48. The opinion states that disclosure of internal records relating to Stonewall membership and access to single-sex services would be likely to:
- inhibit the free and frank provision of advice by officers;
 - inhibit the free and frank exchange of views between officers and members; and
 - otherwise prejudice the effective conduct of public affairs.
49. The qualified person's opinion addresses the nature of the information and the context in which it was created, emphasising the sensitivity of the subject matter and the importance of preserving a space for candid internal discussion while the council was considering how to respond to the complainant's concerns. The Commissioner is satisfied, on the evidence provided, that the opinion was specific to the circumstances of this case and was not merely formulaic.

Characterisation of the withheld information

50. The non-personal information within scope of part 2 consists of:
- internal emails, briefings and draft materials;
 - exchanges between officers and senior members;
 - records of developing positions, options and responses concerning a contentious and sensitive issue.
51. It does not represent finalised or formally adopted council policy. Rather, it captures live deliberative processes, including the testing of arguments, risk assessments, and evolving positions.

Engagement of section 36

52. Having considered the nature, context and timing of the information, the Commissioner finds that:
- all of the remaining non-personal information forms part of a single, integrated deliberative process concerning how the council should respond to politically and legally sensitive safeguarding concerns;

- even material that might, in isolation, appear factual or administrative is here embedded within and reveals the structure, direction or focus of that deliberation; and
- disclosure of any of that material would be likely to undermine the safe space required for candid internal discussion by exposing the content, scope and trajectory of that deliberative process.

53. Accordingly, the Commissioner accepts that:

- sections 36(2)(b)(i) and (ii) are engaged because disclosure would inhibit the provision of advice and exchange of views; and
- section 36(2)(c) is also engaged, as disclosure would be likely to prejudice the effective conduct of public affairs by undermining the council's ability to consider sensitive matters in a controlled and constructive manner.

54. This finding applies to all non-personal information within scope of request part 2.

55. The Commissioner has gone on to consider the public interest arguments in relation to the information he has decided was correctly withheld under section 36.

Public interest test

Public interest in favour of disclosure

56. There is a strong public interest in:

- transparency about the council's relationship with external organisations such as Stonewall;
- accountability for how safeguarding concerns raised by members of the public are addressed;
- public understanding of how decisions affecting access to single-sex services are informed.

57. These factors carry significant weight.

Public interest in favour of maintaining the exemption

58. There is also a strong public interest in:

- protecting a safe thinking space for officers and members considering sensitive and contested issues;

- ensuring that advice and deliberation are full, frank and properly documented;
- avoiding the risk that partial or evolving discussions are disclosed out of context, leading to misinterpretation and distraction from effective decision-making;
- preserving the integrity of ongoing or recently concluded deliberative processes on matters of public controversy.

59. Given the subject matter—safeguarding, equality law, and politically sensitive service provision—these factors also carry substantial weight.

The balance of the public interest

60. The Commissioner recognises the strength of the case for transparency. However, in this case:

- the information represents internal deliberation rather than settled policy and there is limited public interest in the disclosure of the detail of those internal exchanges as opposed to their outcomes;
- disclosure would expose the detail and direction of those deliberations, not merely their outcomes; and
- the risk of harm to the council's ability to conduct such deliberations candidly and effectively is real and significant.

61. The Commissioner is satisfied that:

- the public interest in protecting the safe space for internal discussion outweighs the public interest in disclosure; and
- this conclusion applies to all of the non-personal information within scope of part 2.

Overall conclusion

62. The Commissioner finds that:

- section 40(1) applies to part of the requested information (personal data);
- section 36(2)(b)(i), (ii) and (c) are engaged in respect of all remaining non-personal information within scope of part 2; and
- the public interest favours maintaining the exemption.

63. No further steps are required.

Right of appeal

64. 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)
General Regulatory Chamber
PO Box 11230
Leicester
LE1 8FQ

Tel: 0203 936 8963
Fax: 0870 739 5836
Email: grc@justice.gov.uk
Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

65. 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.
66. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

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

Annex: Request for information

1. Please state if you are currently still members of Stonewall, please include a breakdown of how much CYC has spent since 20th July 2023.

2. Please include all CYC records from 20th July 2023 (meetings, discussions, emails etc) in relation to Stonewall membership and access to single-sex services, facilities - as a result of my safeguarding concerns raised at your Council meeting on 20th July 2023 - in which C YC leader Cllr. Claire Douglas was present.

3. Please include details of when your Stonewall membership was last reviewed, by whom and who is ultimately responsible for this decision.

4. Please provide evidence of CYC having sought 'specialist legal advice' in relation to providing single-sex services/facilities (as per EHRC guidance). Please include how much CYC has spent on 'specialist legal advice' to date.

N.B Information including the content of legal advice may be considered 'legally privileged' and may be redacted - it is not lawful to withhold evidence of CYC seeking and using public funds on 'specialist legal advice'.

5. Please provide a full transcript of the speech made by leader of CYC leader Cllr. Claire Douglas at the recent Supreme Court ruling protest organised by LGBTQ Forum on 26th April 2025 - in which she also appeared and was quoted in the York Press.

6. Please provide all records (inc emails, correspondence, meetings etc) in which Cllr. Claire Douglas was informed and or invited to attend this protest by representatives of the LGBT Forum. Please include how a decision was made for the leader of City of York Council to participate in this protest against the Supreme Court ruling.

7. Please provide records in which Cllr. Claire Douglas was emailed and specifically asked NOT to allow CYC to be associated with the LGBT Forum - on account of their protest against the Supreme Court ruling. N.B any personal details, names/email addresses should be redacted.

8. Please provide CYC's official statement on the recent Supreme Court ruling.

9. Please provide all records regarding the implications of this ruling on COY policies on single-sex services and access to single-sex facilities - including correspondence within the Council Executive.

10. Please confirm your process for holding those accountable for implementing bad guidance, ignoring legitimate safeguarding concerns and compromising the safety and dignity of women and girls.

11. Please confirm how much has been spent on Cllr. Claire Douglas's salary, including details and justification for any pay increases since 20th July 2023.