

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

**Date:** 12 October 2022

**Public Authority:** Rotherham Metropolitan Borough Council  
**Address:** Riverside House  
Main St  
Rotherham  
S60 1AE

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

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1. The complainant has requested metadata relating to a previous request they made (see decision notice IC-149219-S0V3). Rotherham Metropolitan Borough Council ("RMBC") provided some information, but withheld the remainder citing section 40(1) and 40(2) of FOIA (third party personal data) in order to do so.
2. The Commissioner's decision is that RMBC has correctly relied upon section 40 of FOIA to withhold the information.
3. The Commissioner does not require any steps.

### **Request and response**

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4. On 24 May 2021 the complainant wrote to RMBC and requested information in the following terms:  
  
"I am writing to request the metadata of Rotherham Metropolitan Borough Council's handling of my FOI request 'CSE-Who knew What and When?'."
5. On 11 June 2021 RMBC responded and provided 11 documents. It explained that information had been redacted to prevent disclosure of names/personal information relating to, but not necessarily limited to, the requestor and officers of the Council who are below Head of Service level.

6. Following an internal review RMBC wrote to the complainant on 15 July 2021 maintaining its position. It stated:

"This review has found that the redactions applied to the metadata provided in response to FOI 176-2122 were applied correctly. The exemption at Section 40 of the Freedom of Information Act was the exemption used and was the correct exemption in this case. I did note that the email signatures of officers were fully redacted and included in the signature was the Council's main Riverside House address. The Council's address could have remained. However the redaction of this does not impact on what is the real metadata of the request (i.e. unique content in body of emails, such as comments etc.) The internal review has identified three documents, which, while these were not attachments, do form part of the metadata. These are now attached with this internal review response".

### **Scope of the case**

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7. The complainant contacted the Commissioner on 21 January 2022 to complain about the way their request for information had been handled.
8. The complainant believes "vast swathes had been redacted from the original replies and solely the names could have been redacted".
9. The Commissioner considers that the scope of his investigation is to determine whether RMBC was entitled to rely on section 40 of FOIA to withhold the information.

### **Reasons for decision**

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#### **Section 40 personal information**

10. Section 40(1) of the FOIA states that:

"Any information to which a request for information relates is exempt information if it constitutes personal data of which the applicant is the data subject."

11. Section 3(2) of the Data Protection Act 2018 (DPA) defines personal data as:

"any information relating to an identified or identifiable living individual."

12. In this case, the complainant has requested information relating to an information request they made previously.

13. As the request was made by the complainant any information relating to that request would relate to the complainant and they would be identifiable as the person who made the request. Therefore, the Commissioner considers the requested information relating to the request to be the personal data of the complainant and to fall within the definition of personal data in section 3(2) of the DPA
14. Therefore, the Commissioner's decision is that RMBC is entitled to rely on section 40(1) to refuse to provide the part of information relating to the request.
15. Section 40(2) of FOIA says that information is exempt information if it is the personal data of another individual and disclosure would contravene a data protection principle.
16. The withheld information is the names of individuals who dealt with the complainant's correspondence and request. The names of the data subjects quite obviously is information that both relates to and identifies those concerned and therefore falls within the definition of 'personal data' in section 3(2) of the DPA.
17. The Commissioner has reviewed the withheld information and can confirm that it is personal data. Despite the complainant's view that 'vast swathes' have been redacted, this is predominately due to the font size of the names and job titles of those concerned.
18. The Commissioner is satisfied that RMBC has correctly applied section 40(1) and 40(2) to the information.

## **Other matters**

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19. The Commissioner is aware that the complainant has made a number of requests to several different public authorities which have subsequently generated metadata requests.
20. The Commissioner is mindful of his own responsibilities under FOIA to uphold access to information rights and to improve the information rights practices of organisations.
21. However, he also has the discretion to dismiss complaints under section 50(2)(c) FOIA if he considers them to be frivolous or vexatious, likely to bring his office and the legislation into disrepute, or an abuse of process.
22. The Commissioner therefore considers it is appropriate to document in this decision notice an emerging pattern he has noted. He would ask the complainant to be mindful of making similar or the same overlapping

requests for information, requests that could be deemed frivolous or allegations of criminal activity against public authorities with no reasoned basis.

23. This should not deter the complainant from making future requests for information, however, the Commissioner would invite the complainant to take note of the above when making information requests to public authorities.

## Right of appeal

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24. 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)

25. 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.
26. 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

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