

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

### **Decision notice**

**Date:** 10 November 2022

**Public Authority:** Coventry City Council

**Address:** The Council House  
Earl Street  
Coventry  
CV1 5RR

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

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1. The complainant has requested information from Coventry City Council ("the Council"), in relation to a specific taxi and its driver. The Council refused to confirm or deny whether the requested information was held, as to do so would be disclosing personal data.
2. The Commissioner's decision is that the Council was correct to refuse to confirm or deny whether it held the information in this case. The Council did not specifically cite an exemption under FOIA, but the Commissioner is using his discretion and knowledge of the legislation to apply section 40(5B)(a)(i) of FOIA in this case.
3. The Commissioner does not require the public authority to take any steps as a result of this decision notice.

### **Request and response**

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4. On 4 May 2022, the complainant wrote to the Council and requested information in the following terms:

"I am currently defending a court claim and am trying to find some information regarding a taxi and the driver. I have checked the online register and this, I believe, only covers current vehicles and licences.

The incident is related to a collision on 9 December 2017, the vehicle in question had the registration mark of [vehicle registration number] and was a traditional "black cab" being driven by [named person]. Could you confirm that the vehicle [vehicle registration number] was registered and that [named person] was registered as a private hire driver on 9 December 2017."

5. The Council responded on 5 May 2022. It stated that it could neither confirm nor deny that it holds the information.
6. Between the 5 and 6 May 2022, there was further correspondence between the complainant and the Council. The Council explained that the complainant would need a lawful basis to provide such a response.
7. Following an internal review, the Council wrote to the complainant on 10 May 2022. It stated that it upheld its original position; it could neither confirm nor deny that such information was held, as to do so, would be disclosing personal information of a third party.

## **Reasons for decision**

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

8. Section 40(5B)(a)(i) of FOIA provides that the duty to confirm or deny whether information is held does not arise if it would contravene any of the principles relating to the processing of personal data set out in Article 5 of the UK General Data Protection Regulation ('UK GDPR') to provide that confirmation or denial.
9. Therefore, for the Council to be entitled to rely on section 40(5B) of FOIA to refuse to confirm or deny whether it holds information falling within the scope of the request the following two criteria must be met:
  - Confirming or denying whether the requested information is held would constitute the disclosure of a third party's personal data; and
  - Providing this confirmation or denial would contravene one of the data protection principles.

### **Would the confirmation or denial that the requested information is held constitute the disclosure of a third party's personal data?**

10. Section 3(2) of the DPA 2018 defines personal data as:-

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

11. The two main elements of personal data are that the information must relate to a living person and that the person must be identifiable.
12. 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.
13. In this case, the Council has explained that it is neither able to confirm, nor deny, if the vehicle was registered as a licenced taxi on the date specified, as to do so, would be providing personal information of a third party.
14. The Commissioner can see that the complainant holds further information about an individual, who they believe to be the driver of the taxi. As such, for the Council to confirm or deny additional information, would be providing information about an individual.
15. In this case, the Commissioner is satisfied that if the Council confirmed whether or not it holds the requested information, it would result in the disclosure of a third party's personal data.
16. In this instance, the Commissioner has decided that the Council has demonstrated that the exemption at section 40(5B)(a)(i) of FOIA applies to the requested information.

## Right of appeal

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17. 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)

18. 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.
19. 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 .....**

**Michael Lea**  
**Team Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**