

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

### **Decision notice**

**Date:** 28 February 2023

**Public Authority:** City of Bradford Metropolitan District Council  
**Address:** City Hall  
Centenary Square  
Bradford  
West Yorkshire  
BD1 1HY

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

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1. The complainant requested a copy of a petition from City of Bradford Metropolitan District Council ("the Council"). The Council disclosed part of the wording of the petition and the number of signatories but withheld the information about the signatories and the lead petitioner citing the personal information exemption under section 40(2) of FOIA.
2. The Commissioner's decision is that the Council is entitled to rely on section 40(2) (personal information) of FOIA to withhold the information withheld on that basis. However, he finds that the Council has breached section 10(1) of FOIA in that it failed to provide a full response to the request within the statutory time frame of 20 working days.
3. The Commissioner requires the Council to take the following step to ensure compliance with the legislation.
  - Disclose the further information it has identified within scope of the request during the course of the Commissioner's investigation, that is the paragraph, which forms part of the wording of the petition, that appears at the top of each page of the petition other than the front page.
4. The Council must take this step within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of FOIA and may be dealt with as a contempt of court.

## **Request and response**

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5. On 3 August 2022, the complainant wrote to the Council and requested information in the following terms:

“I...request sight of Cllr Mohsin Hussain’s petition in favour of Building a Health and Wellbeing hub and Skills hub on the land at the junction of North Street and Cavendish Street in Keighley”

6. The Council responded on 4 August 2022. It disclosed what it described as the wording of the petition with the personal data redacted and stated that it was withholding the names, addresses and signatures of the signatories under the personal information exemption under section 40(2) of FOIA. At internal review the Council confirmed the number of signatories and upheld its position regarding the application of the personal information exemption.
7. During the course of the Commissioner’s investigation the Council explained that what it had described as the wording of the petition was in fact only part of the wording of the petition. The wording of the petition is made up of three parts. The front page of the petition comprises the wording disclosed to the complainant and a preceding paragraph about the lead petitioner, including their name, address, occupation and length of time resident in the area, which the Council explained it had withheld in its response to the complainant of 4 August 2022. In addition, there is also further wording of the petition, a paragraph that appeared at the top of each subsequent page of the petition above the space for people to sign the petition which the Council have not disclosed. The Council acknowledged during the course of the Commissioner’s investigation that this information should have been disclosed.

## **Reasons for decision**

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### **Section 40 - Personal information**

8. This reasoning covers whether the Council is entitled to rely on section 40(2) (personal information) of FOIA to refuse to provide the names, addresses and signatures of the people who signed the petition and information about the lead petitioner from the front page of the petition, specifically their name, address, occupation and length of time resident in the area.
9. Section 40(2) provides an exemption for information that is the personal data of an individual other than the requester and where the disclosure

of that personal data would be in breach of any of the data protection principles.

10. Section 3(2) of the Data Protection Act 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. In this case, the withheld information is the names, addresses and signatures of the people who signed the petition and information about the lead petitioner from the front page of the petition, specifically their name, address, occupation and length of time resident in the area. Therefore, the Commissioner is satisfied that the requested information is personal data as the information relates to and identifies the individuals who signed the petition and the lead petitioner.

13. The next step is to consider whether disclosure of this personal data would be in breach of any of the data protection principles. The Commissioner has focussed here on principle (a), which states:

“Personal data shall be processed lawfully, fairly and in a transparent manner in relation to the data subject.”

14. In the case of an FOIA request, the personal data is processed when it is disclosed in response to the request. This means that the information can only be disclosed if to do so would be lawful, fair and transparent.

15. When considering whether the disclosure of personal information would be lawful, the Commissioner must consider whether there is a legitimate interest in disclosing the information, whether disclosure of the information is necessary, and whether these interests override the rights and freedoms of the individuals whose personal information it is.

16. The complainant has explained in their complaint to the Commissioner that they wish to inspect the handwriting on the petition in order to ascertain whether each signatory signed the petition themselves or whether there were instances of individuals having signed the petition on behalf of family members. The Commissioner considers that the complainant is pursuing a legitimate interest and that disclosure of the names, addresses and signatures of the people who signed the petition is necessary to meet that legitimate interest. However, he does not consider that the disclosure of the information about the lead petitioner (which was not hand written) is necessary to meet the legitimate interest.

17. As disclosure of the information about the lead petitioner is not necessary to meet the legitimate interest there is no legal basis for the Council to disclose the requested information and to do so would be in breach of principle (a). The Commissioner's decision is therefore that the Council is entitled to rely on section 40(2) of FOIA to withhold this information.
18. As disclosure of the names, addresses and signatures of the people who signed the petition is necessary to meet the legitimate interest the Commissioner has gone on to consider the balancing test with respect to this information.
19. The Council has argued that the individuals who signed the petition would not have reasonably expected that their names, addresses and signatures would be disclosed to the world at large under a FOIA request.
20. The Commissioner agrees with the Council's assessment that the individuals would not expect the Council to disclose their names, addresses, signatures and the fact that they had signed the petition to the wider public.
21. The Commissioner's decision is therefore that the interests of the signatories outweigh the legitimate interest in disclosure of their personal data.
22. The Commissioner has determined that there is insufficient legitimate interest to outweigh the fundamental rights and freedoms of the individuals who signed the petition. Therefore, he considers that there is no legal basis for the Council to disclose the names, addresses and signatures of the people who signed the petition and to do so would be in breach of principle (a).
23. The Commissioner's decision is therefore that the Council is entitled to rely on section 40(2) of FOIA to withhold all of the information withheld on this basis.

### **Section 10 - Time for compliance with request**

24. Section 1(1) of FOIA states that:

"Any person making a request for information to a public authority is entitled –

(a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and

(b) if that is the case, to have that information communicated to him.”

25. Section 10(1) of FOIA states that a public authority must respond to a request promptly and “not later than the twentieth working day following the date of receipt”.
26. The Council acknowledged during the course of the Commissioner’s investigation that it held further information within the scope of the request which should have been disclosed. The Commissioner finds that the Council has breached section 10(1) by failing to respond to the request in full within 20 working days. The Council is now required to disclose the paragraph, which forms part of the wording of the petition, that appears at the top of each page of the petition other than the front page.

## Right of appeal

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27. 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: 0300 1234504

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)

28. 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.
29. 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 .....**

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