

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 25 June 2024

**Public Authority:** Staffordshire County Council  
**Address:** 1 Staffordshire Place  
Stafford  
Staffordshire  
ST16 2DH

### Decision (including any steps ordered)

---

1. The complainant made a request for information relating to ongoing correspondence they were engaged in with Staffordshire County Council ("the Council"). The Council disclosed information within the scope of part 1 of the complainant's request and has confirmed that it does not hold the information requested in part 2 of the request.
2. The Commissioner considers that the Council was correct to confirm that it does not hold the relevant requested information.
3. The Commissioner's decision is also that, in failing to state that it does not hold the relevant requested information within 20 working days of receiving the request, the Council has breached sections 1(1)(a) and 10(1) of FOIA.
3. The Commissioner requires no steps to be taken.

### Request and response

---

4. On 29 July 2023 the complainant made a request for information in relation to ongoing correspondence in which they had been engaging with the Council. That request was as follows:

"Please confirm that:

1. SCC did authorise the "Restrictions of Contact" imposed on me June 2018 and

2. That the enclosed letters have been vetted by SCC Legal Division.”
5. The Council responded on 10 and 11 September 2023. It confirmed that it had indeed authorised the restrictions on contact mentioned in part 1 of the request. On 11 September 2023 the Council’s solicitor responded to state that legal professional privilege applied to part 2 of the request. The solicitor did not cite a specific exemption under FOIA as a basis for refusing to provide the information requested.
6. The complainant requested an internal review of the Council’s response on 21 October 2023. The Council provided its internal review response on 24 October 2023 stating that section 42 of FOIA (legal professional privilege) applied to part 2 of the request.

### **Scope of the case**

---

7. The complainant contacted the Commissioner to complain about the way in which the Council had handled their request.
8. The Commissioner wrote to the Council on 18 April 2024 to seek its submissions regarding the application of section 42 of FOIA to the complainant’s request.
9. As such submissions were not forthcoming, the Commissioner issued an Information Notice on 14 May 2024. The Council then provided its response on 13 June 2024. It changed its stance to state that it did not hold any recorded information within the scope of part 2 of the complainant’s request.

### **Reasons for decision**

---

10. Section 1(1) FOIA provides 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.”

11. The Commissioner has sought to determine whether, on the balance of probabilities, the Council holds the requested information.
12. The Council has informed the Commissioner that no recorded information is held as to whether the Council's legal department was instructed/asked to provide advice in relation to the letters cited in part 2 of the complainant's request.
13. On the balance of probabilities the Commissioner is satisfied that the information requested in part 2 of the complainant's request is not held by the Council,

### **Procedural requirements**

14. In failing to provide a response to the request that complies with section 1(1) of FOIA, i.e. failing to state that the information requested in part 2 of the request is not held, within 20 working days, the Council has breached sections 1(1)(a) and 10(1) of FOIA.

### **Other matters**

15. The Council wrote to the Commissioner on 24 April 2024, stating that the complainant's request should not have been treated as a request under FOIA and that section 42 of FOIA had been cited in error. The Council did not wish the Commissioner to proceed with his investigation of the matter as a FOIA complaint.
16. As the Council had cited FOIA to the complainant in its original response, the complainant invoked the next stage in the process, i.e. seeking an internal review, the response to which cited section 42 of FOIA and advised the complainant to complain to the Commissioner if not satisfied.
17. As the complainant had been advised to do this, and the complaint had come to the Commissioner, he was obliged to treat the matter as a complaint under section 50 of FOIA. The Commissioner seeks to remind the Council that the scope of FOIA extends to all written requests for information and the Council has statutory obligations in respect of such requests. He would also like to emphasise that the Council cannot select what falls under the scope of FOIA and what the Commissioner does and does not treat as a complaint under FOIA.

## Right of appeal

---

18. 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)

19. 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.
20. 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.....**

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