

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

**Date:** 7 December 2022

**Public Authority:** Belfast City Council  
**Address:** Belfast City Hall,  
Belfast,  
BT1 5G

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

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1. The complainant has requested information regarding legal advice sought, as well as correspondence and documentation about the erection of bilingual signage at Olympic Leisure Centre. Belfast City Council (the "Council") cited section 42(1) of FOIA to withhold the requested information.
2. The Commissioner's decision is that the Council has correctly applied section 42(1) of FOIA and does not require the public authority to take any steps.

### **Request and response**

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3. On 8 February 2022, the complainant wrote to the public authority and requested information in the following terms:  
  
"1a. Full disclosure of the legal advice sought by Belfast City Council following the DUP call in regarding the erection of bilingual signage at Olympia Leisure Centre.

1b. Copies of documents captured by request 1a.

Classes of Documents: the request covers any proposal or policy or briefing documents plus any legal documentation, internal and external correspondence or communications relating to this matter."

4. The Council responded on 10 March 2022 citing section 42 of FOIA but stating they required more time to consider the Public Interest Test (PIT) which they confirmed on 11 April 2022.
5. The Council upheld its original position at internal review.

### **Reasons for decision**

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6. The following analysis sets out why the Commissioner has concluded that the Council was entitled to rely on section 42 of FOIA in this particular case.
7. Section 42(1) of the FOIA provides that information is exempt from disclosure if the information is protected by legal professional privilege and this claim to privilege could be maintained in legal proceedings. Legal professional privilege protects the confidential communications between a lawyer and client for the purpose of seeking or giving legal advice.
8. In this case, the complainant has requested the correspondence including legal advice "regarding the erection of bilingual signage at Olympia Leisure Centre." The Commissioner is satisfied from the wording of the request that the information falling within the scope of this request would constitute confidential legal advice provided by a qualified legal adviser to their client. This means that this information is subject to legal professional privilege, and the Commissioner is aware of no evidence suggesting that this privilege has been waived. Whilst the complainant believes that his information request is merely an administrative matter, the Commissioner considers it meets the criteria.
9. The Commissioner therefore considers that section 42(1) of the FOIA is engaged in relation to this information. The Commissioner will now go on to consider the public interest test.
10. The general public interest inherent in this exemption will always be strong due to the importance of the principle behind LPP: safeguarding openness in all communications between client and lawyer to ensure access to full and frank legal advice, which in turn is fundamental to the administration of justice.
11. In *Bellamy v Information Commissioner & the Secretary of State for Trade and Industry* (EA/2005/0023, 4 April 2006), the Tribunal explained the balance of factors to consider when assessing public interest test: "there is a strong element of public interest inbuilt into the

privilege itself. At least equally strong countervailing considerations would need to be adduced to override that inbuilt public interest.”

12. The Commissioner considers that the balance of public interest lies in withholding the information and protecting the Council’s ability to obtain free, frank, and high-quality legal advice without the fear of disclosure. The Commissioner is not aware of any public interest arguments that are enough to outweigh or override the inbuilt public interest in the information remaining protected by legal professional privilege.
13. The Commissioner has concluded that the public interest in maintaining the exemption at section 42(1) outweighs the public interest in disclosure. Therefore, the Council has correctly applied section 42(1). The Commissioner requires no further action to be taken in relation to this request.

## Right of appeal

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14. 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)

15. 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.
16. 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

**Phillip Angell**  
**Head of Freedom of Information Casework**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**