

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 6 February 2024

Public Authority: City of Bradford Metropolitan District Council

Address: Britannia House
Hall Ings
Bradford
BD1 1HX

Decision (including any steps ordered)

1. The complainant requested information from City of Bradford Metropolitan District Council relating to the recruitment of individuals to the Council's IT Department.
2. The Commissioner's decision is that the Council is entitled to rely on section 40(5) (personal information) of FOIA to refuse to confirm or deny whether the information requested in part 4 of the request is held.
3. The Commissioner does not require the Council to take any steps.

Request and response

4. On 15 June 2023, the complainant wrote to the Council and requested information in the following terms:

"... I hereby request the following information:

1. Appointment in the IT department from the year 2021 to 2023.
2. Where the jobs were advertised and what were the selection criteria?
3. Concern about the appointment of [name redacted] who has a diplomatic passport was an employee of the Pakistan Consulate Bradford Mission. Never work in IT.
4. Would like to know if the references he provide were checked or not?
5. Would like to know the appointment of [name redacted] in the IT department he has a teaching background, not IT, how did he get employment? The references he provide were checked or not?
6. The appointment of [name redacted] in the IT department, the day she landed from India was hired by [name redacted]. Even she was interviewed when she was in India. Just to mention here [name redacted] is the wife of [name redacted].
7. The relation between [name redacted] - [name redacted] - [name redacted] - [name redacted] and [name redacted]?
8. Would like to know the appointment of [name redacted] who was a taxi driver all his life how he become IT engineer? Is there any interview transcript available? Just to mention here [name redacted] is the elder brother of [name redacted] who has strong ties with [name redacted].
9. [name redacted] give them undue favour and receives incentives, they help [name redacted] with his daily life routine of buying groceries, cooking food, organizing program traveling, and many more, if you scrutiny their

mobile phones you will get to know more about their relationship...”

5. The Council provided the complainant with information in response to parts 1 and 2 of the request but refused to confirm or deny whether the information requested in parts 4, 5 and 8 of the request was held citing section 40(5) (personal information) of FOIA as its basis for doing so. The Council stated that parts 3, 6, 7 and 9 of the request are not valid requests for information under FOIA as they do not ask for recorded information.

Reasons for decision

6. This reasoning covers whether the Council is entitled to rely on section 40(5B) to refuse to confirm or deny whether the information requested in part 4 of the request is held.
7. Section 40(5B) of FOIA allows a public authority to refuse to confirm or deny that it holds particular information if the mere act of confirming or denying that information is held would, in itself, reveal personal data about an identifiable individual and would contravene one of the data protection (DP) principles.
8. Section 3(2) of the Data Protection Act 2018 defines personal data as:

“any information relating to an identified or identifiable living individual.”
9. The two main elements of personal data are that the information must relate to a living person and that the person must be identifiable.
10. The Commissioner considers that the Council would disclose the personal data of a third party to the world at large if it were to confirm that it held information within the scope of part 4 of the request. If the Council were to confirm that it held information within the scope of part 4 of the request, it would confirm that a specific individual named in the request had applied for a role at the Council. This would be the personal data of that individual as clearly the information relates to them and they are identifiable.
11. The next step is to determine whether such a confirmation or denial would contravene any of the data protection principles. In this case, the Commissioner considers the most relevant data protection principle to be principle (a).

12. Article 5(1)(a) of the UK GDPR, which concerns this principle, states the following:

“Personal data shall be processed lawfully, fairly and in a transparent manner in relation to the data subject.”
13. In the case of a FOIA request, personal data is processed when it is disclosed in response to a request. This means that the information can only be disclosed, or as in this case the public authority can only confirm whether or not it holds the requested information, if to do so would be lawful, fair, transparent.
14. When considering whether the disclosure of personal information would be lawful, the Commissioner must consider whether a legitimate interest is being pursued, whether confirming or denying that the requested information is held is necessary to meet that legitimate interest, and whether these interests override the rights and freedoms of the individuals whose personal information it is.
15. In this case, the Commissioner accepts that there is a legitimate interest in the transparency of the Council’s recruitment process as a means of ensuring that the Council is following its recruitment procedures. He accepts that it is necessary, to some extent, for the Council to confirm or deny whether the information requested in part 4 of the request is held in order to meet this legitimate interest.
16. However, the Commissioner considers that if the Council were confirm that it held the information requested in part 4 of the request it would cause distress to the individual named in the request as that individual would have a reasonable expectation that the Council would not disclose whether or not they had applied for a role. They would expect this information to remain confidential to them and the Council given that the information is their personal data.
17. Therefore, the Commissioner’s decision is that the Council is entitled to rely on section 40(5) of FOIA to refuse to confirm or deny whether the information requested in part 4 of the request is held.

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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

Website: 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

Daniel Perry
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF