

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 2 September 2022

Public Authority: Heybridge Basin Parish Council

Address: PO Box 13224
Maldon
CM9 9FW

Decision

1. The complainant requested information from Heybridge Basin Parish Council ("the Council") relating to individuals who received parking permits for a specific car park.
2. The Commissioner's decision is that the Council is entitled to rely on section 40(2) (personal information) of the FOIA to refuse to provide the requested information.

Request and response

3. The complainant made the following information request to the Council on 20 April 2022:

"Under "Freedom of information"

Please advise the registration number, name and address of all cars given parking permits for DMCP."

4. The final position of the Council is that the requested information is third party personal data and therefore exempt from disclosure.

Reasons for decision

5. Whilst the Council has not stated which exemption it is relying on to refuse to provide the requested information, the Commissioner has assumed that as the Council considers the requested information to be third party personal data, the Council is relying on section 40(2) (personal information) of the FOIA to refuse to provide the requested information.
6. Therefore, this reasoning covers whether the Council is entitled to rely on section 40(2) of the FOIA to refuse to provide the requested information.
7. 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.
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. In this case, the complainant has requested the names, addresses and car registration numbers of individuals who have been given parking permits for a specific car park. The Commissioner is satisfied that the requested information is personal data as it relates to and identifies the individuals who have received parking permits and therefore, falls within the definition of 'personal data' in section 3(2) of the DPA.
11. 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."
12. 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.
13. 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.

14. The Commissioner considers that the complainant is pursuing a legitimate interest and that disclosure of the requested information is necessary to meet that legitimate interest. However, the Commissioner also considers that the individuals who received parking permits have a strong reasonable expectation that their names, addresses and car registration numbers would remain confidential.
15. The Commissioner has determined that there is insufficient legitimate interest to outweigh the fundamental rights and freedoms of the individuals who received parking permits. Therefore, he considers that there is no legal basis for the Council to disclose the requested information and to do so would be in breach of principle (a).
16. The Commissioner's decision is that the Council is entitled to rely on section 40(2) of the FOIA to refuse to provide the requested information. He requires no further action to be taken by the Council in relation to this request.

Right of appeal

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: 0300 1234504

Fax: 0870 739 5836

Email: grc@justice.gov.uk

Website: 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

Ben Tomes
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