

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 20 March 2024

**Public Authority:** Oxford City Council  
**Address:** Town Hall  
St Aldate's  
Oxford  
OX1 1BX

#### Decision (including any steps ordered)

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1. The complainant has requested information about bathroom adaptations for houses. Oxford City Council ("the Council") disclosed some information but withheld the remainder under section 40(2) (personal information) of FOIA.
2. The Commissioner's decision is that the Council is entitled to rely on section 40(2) to refuse to provide the remaining information.
3. The Commissioner does not require further steps.

#### Request and response

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4. On 10 October 2023, the complainant wrote to the Council and made three requests for information in the following terms:  
  
"1. in the past 24 months how many bathroom adaptations into accessible shower rooms have Oxford City Council performed / funded both in the private sector and council owned properties?  
2. Please provide the cost of each individual adaption listed above.  
3. Please provide the names of all contractors and sub contractors that were awarded each individual contract to perform adaption listed in (1) above."

5. The Council responded on 7 November 2023. It disclosed information, in respect of 'council owned' properties, for all three requests.
6. The Council responded further on 23 November 2023, in respect of 'all other tenancies' (i.e., the private sector). In respect of request 1, it disclosed information. In respect of request 2, it withheld the information under section 40(2). In respect of request 3, it disclosed information (being a list of suggested contractors).
7. On 21 November 2023, the complainant asked the Council to provide an internal review. This was on the basis that they were dissatisfied with the Council's response to the 'all other tenancies' aspect of the requests. Specifically, the Council's withholding of information under section 40(2) (for request 2), and that the Council had not disclosed the information that was requested (for request 3).
8. Following an internal review, the Council wrote to the complainant on 21 December 2023. In respect of request 2, it maintained that the information was exempt under section 40(2). In respect of request 3, it clarified that the requested information was also exempt under section 40(2).

## Reasons for decision

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9. This reasoning covers whether the Council is entitled to rely on section 40(2) (personal information) of FOIA to refuse to provide the information for 'all other tenancies' sought by request 2 and request 3.
10. 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.
11. Section 3(2) of the Data Protection Act 2018 defines personal data as:  
"any information relating to an identified or identifiable living individual."
12. The two main elements of personal data are that the information must relate to a living person and that the person must be identifiable.
13. In this case the Council withheld the exact cost, and the specific contractor that was used, for bathroom adaptations.
14. In respect of the exact cost of bathroom adaptations, the Council explained in its internal review response that "to provide cost of each

adaptation would reveal the value of grants given by the Home Improvement Agency to disabled individuals.” The Council further explained that it considered this to represent sensitive personal data, on the basis that it represents data about their health.

15. In respect of the specific contractor used for each bathroom adaption, the Council explained in its response that the decision of which contractor to use was made by the homeowner. The Council further explained in its internal review response that “to link specific contractors to specific adaptations would risk identifying individuals and their personal data including financial and health data as well as potentially their addresses.”
16. The complainant has disputed that the information cannot represent personal data, because the cost of an adaption, or the specific contractor chosen by the homeowner, cannot be used by them to identify an individual.
17. The Commissioner’s public guidance on ‘What is personal data?’<sup>1</sup> explains that information that relates to an identifiable individual will represent a personal data. Identification may be direct (e.g., through a name or identification number) or indirect (e.g., through biographical information about their life).
18. In this case, the Commissioner is satisfied that the information represents personal data. The ‘cost’ of an adaption represents the grant given by the Home Improvement Agency to a disabled individual, whilst the contractor used represents a personal choice that the individual has made. This information, combined with other information already in the public domain (including that known by the individuals’ relatives, or other individuals who are aware, or have been involved in, the bathroom adaption), would allow the individuals to be identified.
19. The Commissioner emphasises, for the benefit of the complainant, that disclosure under FOIA represents to disclosure ‘to the world’. The Commissioner must therefore have regard to other information or knowledge that will, or may be, in the public domain, and which could be combined with that disclosed under FOIA to allow individuals to be identified.

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<sup>1</sup> <https://ico.org.uk/for-organisations/uk-gdpr-guidance-and-resources/personal-information-what-is-it/what-is-personal-data/>

20. The Commissioner is therefore satisfied that the information represents personal data.
21. 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.”
22. 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.
23. 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.
24. The Commissioner considers that the complainant is pursuing a legitimate interest – transparency about the use of public monies - and that disclosure of the requested information is necessary to meet that legitimate interest.
25. However, the Commissioner also recognises that the request is seeking information about individuals, including about the value of grants they have been awarded for medical reasons, and that it will not be possible to disclose this information in an anonymised way.
26. The Commissioner is also aware that the Council has disclosed the average cost of bathroom adaptations (for all other tenures) – being £6916, as well as the list of suggested contractors that is given by the Home Improvement Agency. The Commissioner considers that the publishing of this information under FOIA addresses the legitimate interest being pursued by the requester.
27. The Commissioner has determined that there is insufficient legitimate interest to outweigh the fundamental rights and freedoms of the individuals. 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).
28. The Commissioner’s decision is that the Council is entitled to rely on section 40(2) to refuse to provide the information.

## **Right of appeal**

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29. 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)

30. 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.
31. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

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