

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 30 June 2022

Public Authority: Upper Rissington Parish Council
Address: Village Hall
Wellington Road
Upper Rissington
Gloucestershire
GL54 2QW

Decision

1. The complainant requested from Upper Rissington Parish Council ("the Council") all the information the Council holds which relates to themselves.
2. The Commissioner's decision is that the Council is entitled to rely on section 40(1) (personal information) of the FOIA to withhold the requested information.

Request and response

3. The complainant made the following information request to the Council on 25 October 2021:

"For the avoidance of any doubt please note that each of the below requests are separate individual requests as they each cover a completely different period of time, so they must be dealt with as separate requests in relation to time, cost etc. As each request is for a completely different period of time it would not be possible to refuse these requests under section 14.2 of the act! I therefore make the following FOI requests:

A) I formally request a copy under the FOI act, of every communication from all members of the council (including the

Clerk) – PC emails, personal emails, notes, messages of any kind etc which reference me (under any noun/pronoun) during the period covering the 06/04/21 - 06/05/21

B) I formally request a copy under the FOI act, of every communication from all members of the council (including the Clerk) – PC emails, personal emails, notes, messages of any kind etc which reference me (under any noun/pronoun) during the period covering the 07/05/21 -06/06/21

C) I formally request a copy under the FOI act, of every communication from all members of the council (including the Clerk) – PC emails, personal emails, notes, messages of any kind etc which reference me (under any noun/pronoun) during the period covering the 07/06/21 - 06/07/21

D) I formally request a copy under the FOI act, of every communication from all members of the council (including the Clerk) – PC emails, personal emails, notes, messages of any kind etc which reference me (under any noun/pronoun) during the period covering the 07/07/21 - 06/08/21

E) I formally request a copy under the FOI act, of every communication from all members of the council (including the Clerk) – PC emails, personal emails, notes, messages of any kind etc which reference me (under any noun/pronoun) during the period covering the 07/08/21 -06/09/21

F) I formally request a copy under the FOI act, of every communication from all members of the council (including the Clerk) – PC emails, personal emails, notes, messages of any kind etc which reference me (under any noun/pronoun) during the period covering the 07/09/21 - 06/10/21

G) I formally request a copy under the FOI act, of every communication from all members of the council (including the Clerk) – PC emails, personal emails, notes, messages of any kind etc which reference me (under any noun/pronoun) during the period covering the 07/10/21 - 25/10/21

Pls. note that all communications requested under a FOI request needs to be provided as a legal requirement. I would like to remind you all that it is illegal to delete any communications of any kind (held on the PC mail account or on any private account) or to not include any information which has been requested. This remains in force even if a FOI request has been denied!"

4. The Council refused to provide the requested information citing section 12 (cost limit) of the FOIA.

Reasons for decision

5. Whilst the Council has refused to provide the requested information under section 12 of the FOIA, this reasoning covers whether the requested information is the complainant's personal data and therefore, exempt from disclosure under section 40(1) (personal information) of the FOIA.
6. Section 40(1) of the FOIA provides that any information to which a request for information relates is exempt information if it constitutes personal data of which the requester is the data subject.
7. Section 3(2) of the Data Protection Act 2018 ("the DPA") defines personal data as:

"any information relating to an identified or identifiable living individual."
8. The two main elements of personal data are that the information must relate to a living person and that the person must be identifiable.
9. In this case, the complainant has requested all the information held by the Council which references them during a specific time period. The Commissioner is satisfied that the requested information is the personal data of the complainant as the information relates to and would identify the complainant.
10. Therefore, the Commissioner's decision is that the Council is entitled to rely on section 40(1) of the FOIA to refuse to provide the requested information. The Commissioner requires no further action to be taken by the Council in relation to this request.

Other matters

11. In this case, the Council failed to recognise that the complainant had requested their own personal data and did not consider the request under the Data Protection Act 2018 (DPA). Whilst the Commissioner cannot require a public authority to take action under the DPA via a FOIA decision notice, in view of his decision that the requested information is the personal data of the complainant, the Council should consider providing a response to the complainant under the DPA in respect of the information they requested.

Right of appeal

12. 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

13. 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.
14. 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
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF