

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

### **Decision notice**

**Date:** 30 January 2023

**Public Authority:** Manchester City Council  
**Address:** Town Hall  
Manchester  
M50 2LA

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

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1. The complainant requested information about the closure of Water Street, Manchester to traffic. Manchester City Council (the Council) withheld the information requested under sections 24 (national security) and 38 (health and safety). The Commissioner's decision is that the Council correctly applied section 24 of the FOIA to the withheld information. The Commissioner does not require any steps to be taken.

#### **Request and response**

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2. On 22 March 2022, the complainant wrote to the Council and requested information in the following terms:  
  
"Along with other people I was advised that Police and Security Advisers had recommended the closure of Water Street to reduce the risk of terrorism attacks. May I please have a sight of the relevant documents making this recommendation. I am happy that for security reasons some of the documents may need to be redacted but I am concerned only with those sections of the documents which make the specific recommendations".
3. The Council issued a refusal notice on 13 May 2022 stating that the information requested was exempt under sections 24(1) and 38(1) of the FOIA. The Council upheld this position in its internal review response dated 12 September 2022 but disclosed one document, subject to some information being redacted.

## Scope of the case

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4. The complainant contacted the Commissioner on 14 September 2022 to complain about the way their request for information had been handled.
5. During the course of the Commissioner's investigation, the Council stated that it also wished to rely on section 40(2) (third party personal data) to withhold some information contained within the withheld documents.
6. The scope of the Commissioner's investigation is to determine whether the Council should disclose the withheld information.

## Reasons for decision

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### Section 24 – national security

7. Section 24(1) provides an exemption from the duty to disclose information where this is reasonably required for the purposes of safeguarding national security. If the information falls within the exemption, it is then subject to the public interest test.
8. Although there is no definitive definition of national security, the Information Tribunal for *Norman Baker v the Information Commissioner and the Cabinet Office* (EA/2006/0045 3 4 April 2007) provided the following:
  - "national security" means the security of the United Kingdom and its people;
  - the interests of national security are not limited to actions by an individual which are targeted at the UK, its system of government or its people;
  - the protection of democracy and the legal and constitutional systems of the state are part of national security as well as military defence;
  - action against a foreign state may be capable indirectly of affecting the security of the UK; and
  - reciprocal co-operation between the UK and other states in combating international terrorism is capable of promoting the United Kingdom's national security.

9. In this context the Commissioner interprets "required for the purpose" [of safeguarding national security] to mean 'reasonably necessary'.
10. As per the Commissioner's guidance on section 24<sup>1</sup>, although there has to be a real possibility that the disclosure of requested information would undermine national security, it is not necessary to show that disclosing the information would lead to a direct or immediate threat to the UK.
11. The withheld information in this case comprises confidential security reports, notes of a meeting with a security advisor and Greater Manchester Police, and emails between the Council and Greater Manchester Police regarding options for traffic management around a new building – the Factory – in the centre of Manchester. The Factory is due to open in 2023 and is the new permanent home of Manchester's International Festival. It is anticipated that the venue will house a 2,200 seat theatre and have a standing capacity of 5,000 people and attract over 800,000 people a year to the city.
12. In its initial response the Council advised that "consultation with the local Counter Terrorism Security Advisor and Security Consultant resulted in vulnerabilities being identified that could be mitigated by the controlled access or omission of traffic to Water Street; thus, the proposal to close Water St to through traffic was recommended".
13. Having regard to the circumstances of the case and having had sight of the withheld information the Commissioner notes that it contains detailed information about the assessment of risks at the site in question and how those risks could be mitigated.
14. The Commissioner therefore accepts that withholding the information is required for the purposes of national security and as such section 24(1) is engaged.
15. Section 24 is subject to the public interest test, as set out in section 2 of FOIA.
16. The Council accepts that disclosure would promote accountability and transparency in its decision making with regard to the closure of Water Street. The Council also acknowledges that there is a public interest in information concerning public safety.

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<sup>1</sup> <https://ico.org.uk/for-organisations/guidance-index/freedom-of-information-and-environmental-information-regulations/section-24-safeguarding-national-security/>

17. In terms of the arguments in favour of maintaining the exemption, the Council considers that:
  - "Disclosure of specific security details could damage the UK's ability to respond effectively to a terrorist attack.
  - Disclosure of sensitive information that is not in the public domain could be used as part of an intelligence gathering exercise by terrorists to plan an attack or pose a wider national threat, therefore compromising security and consequently adversely impacting on the UK's security".
18. The Council is of the view that, as safeguarding national security is of paramount importance, the public interest test favours maintaining the exemption in this case.
19. The Commissioner recognises that disclosing the withheld information in this case would meet the public interest in transparency and accountability surrounding the decision to close Water Street to traffic.
20. However, balanced against this, he must consider whether disclosure would have any effects which would run counter to the public interest in safeguarding national security, and if so, whether they are outweighed by the benefits of disclosure.
21. The Commissioner considers that safeguarding national security is a matter of the most fundamental public interest; its weight can be matched only where there are also equally fundamental public interests in favour of disclosure of the requested information.
22. Having considered all of the circumstances of this case, and taking into account the nature of the withheld information, the Council's submissions and his own guidance, the Commissioner does not consider that the public interest in disclosing the information matches the weight of the public interest in avoiding a disclosure that could be detrimental to national security.
23. The finding of the Commissioner is that the Council has correctly applied section 24(1) of the FOIA to the withheld information and the public interest in maintaining the exemption outweighs the public interest in disclosure.
24. As the Commissioner has determined that the withheld information is exempt by virtue of section 24(1) of the FOIA, he has not gone on to consider the Council's application of sections 38(1) and 40(2) to the information.

## Right of appeal

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25. 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)

26. 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.
27. 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 .....**

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