

My ref: 5154644

Nikhil Prabhu

By email:

request-622538-bcf690c2@whatdotheyknow.com

10 March 2020

Dear Nikhil Prabhu

FREEDOM OF INFORMATION ACT 2000 ("FOIA") – INTERNAL REVIEW – REF:5154644

I am writing to you further to your request for an internal review of the Council's handling of your freedom of information request made on 22 November 2019.

The internal review is now complete and I am able to provide you with the outcome. In undertaking this review, I have considered your request for information afresh and in doing so I have considered the following items of correspondence relevant to your request for a review:

1. Your request for information received on 22 November 2019
2. The Council's email acknowledging your request dated 27 November 2019
3. The Council's response to your request dated 20 December 2019
4. Your email received on 30 December 2019
5. The Council's email to you dated 16 January 2020
6. Your email received on 13 February 2020
7. Your request for an internal review received on 18 February 2020
8. The Council's email acknowledging your request for an internal review dated 18 February 2020

Your initial request was for the following information;

*On analyzing your open data portal
(<https://apps.warwickshire.gov.uk/OpenData/categories/finance>) for years 2011-2014, we
find the Council conducted on an average 180 fostering payments / month.*

However, starting Jan 2015 and eventually after June 2015, these payments reduced to ~50/month and unfortunately we are unable to see this information any more. If Warwickshire did its own investigation - it will agree with what we have said.

This information is not limited just to fostering - but all Social Care - includes payments to Adult services for Residential Care/ Elderly Services and for Childrens Residential services.

We also identified you have the below IFAs supplying services to the Council. These services we understand are still ongoing - Warwickshire CC also displayed payments for in-house fostering which was redacted - and this too has ceased.

*Abacus Fostering Ltd
Abc Foster Care Ltd
Acorn Fostering Services Ltd
Action For Children Fostering
Alliance Foster Care
Banya Family Placement Agency Ltd
Barnardo'S Fostering Service
By The Bridge Ltd
Calon Cymru Fostering Ltd (Registered as Pathway Care Ltd part of BSN Social Care Ltd)
Capstone Foster Care Ltd
Child Care Bureau Ltd (T/A Child Care Bureau Fostering Services)
Clifford House Fostering Ltd
Compass Community Ltd
Core Asset Fostering Ltd (The Foster Care Associates)
Cornerstone (North East) Adoption and Fostering Service
Familyplacement.com Ltd
Father Hudson'S Society
Five Rivers Child Care Ltd
Fostering People Ltd
Fostering Solutions Ltd
Fosterplus Ltd
Foundation Fostering Ltd
Freedom Fostering Ltd
Independent Fostering Agencies - Redacted
Integrated Services Programme
Jay Fostering Ltd
Kaleidoscope Therapeutic Child Care Ltd
Match Foster Care Ltd
Orange Grove FosterCare Ltd
Parallel Parents Ltd
Phoenix Fostering
Priory Fostering Services
Progress Care Solutions Ltd T/a Progress Children's Services Ltd
Quality Fostering Ltd
Regional Foster Placements Ltd
Social Work Assessment Partners Ltd (T/a SWAP Foster Care)
Sunbeam Pride Fostering Service Ltd
Swiis Foster Care Ltd
The Adolescent and Children's Trust Ltd
The Foster Care Co-Operative Ltd
The National Fostering Agency Ltd*

Barring any reasonable explanation for this discrepancy, we kindly request the Council to please provide us with all Health & Social Care transactions from 2015 to Date - preferably

in CSV format (i.e., Suppliers who provide a service in Health & Social Care ONLY, these would include Children's fostering, residential, special education; Adult's & Elderly residential and care services).

Thank you.

Yours faithfully.

PS: Council provided us transactions below £500 list in the past, however this is not exactly what we are looking for.

The Council's response

The Council provided their response to your questions on 20 December 2019 and advised that they would not be supplying the information requested to you as to do so would exceed the appropriate limit as outlined in Section 12(1) of the FOIA.

The request also confirmed to you that the accuracy of the data on the Open Data portal of the website was being assessed and corrected by the team who manage it. You were advised to check back at another point in the financial year to see whether the Open Data had now provided the information you had requested, you were also advised to consider requesting a smaller subset of data, as this would reduce the time needed to collate it. Finally you were advised that public information about spend on all aspects of social care is published on the NHS and Gov.uk websites.

You responded to this response on 30 December 2019 and asked for an “*ETA for the assessment of the Open Data portal of your website*”. The Council responded to you on 16 January 2020 and advised that,

“The assessment of the accuracy of the data on the Open Data portal of the website is underway so that, if appropriate, corrections can be made.

We will communicate the outcome as soon as this has been completed”

You subsequently then made a request for an internal review on 18 February 2020. This request also contained comments on the Council's financial practices.

Review of the Council's response

Having reviewed the Council response of 20 December 2019, I am sorry that the Council failed to confirm in their response to you whether or not the information was held by the Council. Having reviewed your request with the relevant departments I can confirm that the Council does hold the information that you have requested.

I have noted that in the Council's response they advised that, “*The accuracy of the data on the Open Data portal of the website will be assessed and the team informed so that it can be corrected*”. Following your email of 30 December 2019 asking for update on when this would be completed, the Council responded to you on 16 January 2020 and advised that the “*The assessment of the accuracy of the data on the Open Data portal of the website is underway so that, if appropriate, corrections can be made.*

We will communicate the outcome as soon as this has been completed”

I have spoken with the relevant team who are responsible for the Open Data portal of the website and they have advised that an assessment has been undertaken and to fully update

the Open Data portal would require a new programme to be written. This programme would need to be written by an external consultant and then crosschecked with the current data. This will incur further cost and time. As such, the Council need to consider the costs and time required before a decision can be made. I apologise if the initial response from the Council led you to believe that the Open Data portal was being updated, when it was just an assessment that was being undertaken.

The Council relied upon exemption s12(1) of the FOIA which allows for the Council to refuse a request for information where providing the information would exceed the appropriate limit. Unfortunately, our initial response to you did not provide you with the details of how this exemption is applied and how, in this case, the appropriate limit would be exceeded. Please accept our apologies for this. I have set out below how exemption 12 of the FOIA is applied and how in this case the appropriate limit has been exceeded.

Application of exemption s12 FOIA

Section 12 of the FOIA states the following;

"12. — (1) Section 1(1) does not oblige a public authority to comply with a request for information if the authority estimates that the cost of complying with the request would exceed the appropriate limit.

(2) Subsection (1) does not exempt the public authority from its obligation to comply with paragraph (a) of section 1(1) unless the estimated cost of complying with that paragraph alone would exceed the appropriate limit.

(3) In subsections (1) and (2) "the appropriate limit" means such amount as may be prescribed, and different amounts may be prescribed in relation to different cases.

(4) The Secretary of State may by regulations provide that, in such circumstances as may be prescribed, where two or more requests for information are made to a public authority- (a) by one person, or (b) by different persons who appear to the public authority to be acting in concert or in pursuance of a campaign, the estimated cost of complying with any of the requests is to be taken to be the estimated total cost of complying with all of them"

The relevant Regulations which define the appropriate limit for section 12 are The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulation 2004 SI 2004 No 3244. The appropriate limit is set out in Regulation 3 and states that the appropriate limit for central government, legislative bodies and the armed forces is £600. For all other public authorities, the appropriate limit is £450.

Regulation 4 provides that public authorities can only take into account the cost it reasonably expects to incur in carrying out the following activities, to comply with the request;

- determining whether the information is held;
- locating the information, or a document containing it;
- retrieving the information, or a document containing it; and
- extracting the information from a document containing it.

All public authorities must calculate the time spent on the activities above at a rate of £25 per person hour. This equates to 18 hours work for the Council.

The Council does not have to undertake a precise calculation of the costs of complying, but must make a reasonable estimate on the amount of time. The case of *Randall v Information Commissioner and Medicines and Healthcare Products Regulatory Agency (EA/2006/0004*,

30 October 2007) considered what a reasonable estimate of time was and said that a reasonable estimate is one that is “....*sensible, realistic and supported by cogent evidence*”.

The Information Commissioners Office (ICO) has provided further guidance on this, which I have considered below.

Sensible and realistic

The ICO advised that a sensible and realistic estimate is one that is based on the specific circumstance of the case, not general assumptions. The public authority does not have to consider all possible means of obtaining the information requested in order to provide a reasonable estimate.

In this instance the relevant teams that hold the information you requested were contacted and asked to provide an estimate on how long they thought each task would take to be able to collate the information you had requested. The table below provides a breakdown of each activity that would need to be undertaken and an estimate of time. Please be advised that the Council makes approximately 650,000 individual social care payments each year.

Activity	Estimate of how long would take
Determining whether WCC holds the information/where information held	10 minutes
Locating the information or a specific document(s) containing the information	Accessing finance ledger entries for each year 5 minutes per year. For five years, this would equate to 25 minutes.
Retrieving the information/document containing it	Downloading circa 650,000 payments lines per year would take approximately 15 minutes per year. For five years, this would equate to 1 hour, 15 minutes.
Extracting information from a document containing it –	Reviewing and editing all lines of data, circa 3.25 million lines for items & information that needs to be redacted (over 5 years). Working on a very low estimate, it would take approximately 5 seconds per line which would equate to 4,500 hours

Total time estimate	4,502 hours
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In this instance to provide you with the information that you have requested over the time period requested would take approximately 4,502 hours of officer time. This greatly exceeds the appropriate time limit of 18 hours.

Section 16 FOIA

The Council has a duty under s16 to provide advice and assistance to a person who has made a request.

Section 16 of the FOIA states;

"16. — (1) It shall be the duty of a public authority to provide advice and assistance, so far as it would be reasonable to expect the authority to do so, to persons who propose to make, or have made, requests for information to it.

(2) Any public authority which, in relation to the provision of advice or assistance in any case, conforms with the code of practice under section 45 is to be taken to comply with the duty imposed by subsection (1) in relation to that case."

In the Council's response of 20 December 2019 the Council advised, "consider requesting a smaller subset of data than the 5 years asked for as this will reduce the time needed to collate the information"

We have noted in you subsequent responses that you have not asked us to refine or reduce your request for information.

If you do however wish to refine your request, then please do advise the Council and they will consider your request.

Accounting at the Council

I have also noted within your request for an internal review that you have made a number of comments about the Council's financial practices. You advised the following;

"As an accountant I would see as fundamental the council providing information on a monthly basis. If they cannot do that then I would certainly feel concerned if proper accounting practices are being applied at Warwickshire County Council. Notably a very crucial part of the accounting function is to close the books (Nominal Ledger) on a monthly basis and review the account in detail. This would mean examining transactions and correcting any incorrect transactions. If this is not happening, then, one would question good financial practices at Warwickshire County Council. These statements would form part of Monthly Management Accounts/ Management Information. Surely Management must know what is happening. If not is the council managing its finances accurately and have the auditors not noticed this issue which would raise serious issues around the management of finances.

I would like to stress that I would like to work with Warwickshire County Council but strongly feel if they cannot do the above exercise there would need to be serious questions asked by the auditors and residents on the handling of public finance."

I have spoken with our finance team who have confirmed monthly management accounts are produced and circulated to Council management. In addition, reports outlining the forecast financial position are provided to both Directorate Leadership Teams and Corporate Board on a monthly basis. Accounts are reviewed on an ongoing basis, which includes correcting incorrect transactions. Accruals are completed on an annual basis.

Conclusion

I am satisfied that after reviewing all of the information the correct exemption was applied. The Council is unable to provide the information to you as to do so would exceed the 18-hour time limit. The Council has demonstrated that in answering your request it would take 4,502 hours of officer time.

The Council will consider any suggestions that you have to refine this request, should you wish to do so.

Next Steps

I do hope that this internal review addresses the issue you have raised.

If you are not satisfied with the outcome of the review you may wish to appeal to the ICO, at the following address:

Compliance Team (Complaints)
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Yours sincerely

pp 

Emily Wells

