

24 June 2015  
Our ref: 1874796

Thank you for your request received on 28 May 2015, for the following information:

*You recently kindly provided me with useful information about the fees you pay to Leonard Cheshire Disability (LCD) and to other providers for social care, and what representations (if any) LCD has made to your council to increase fees paid by yourselves to LCD in order to enable LCD to pay its carers the Living Wage.*

*Luton council has indicated that since I made the above Freedom of Information Request to yourselves, they have received correspondence from LCD opening up discussion on the fees paid to LCD to enable LCD to pay the living wage. Further, LCD have informed my father that they "have in fact recently written to all local authorities who commission our services about our desire to pay the living wage."*

*I wonder if you could please inform me as to whether you have indeed received such correspondence from LCD. Further, could you please provide me with a copy of the correspondence (or, to be technically correct under the FOI Act, could you provide me with the information contained in the correspondence, preferably in the form of a copy of the actual correspondence.)*

We have processed this request under the Freedom of Information Act 2000.

## **Response**

I wonder if you could please inform me as to whether you have indeed received such correspondence from LCD.

**We can confirm that London Borough of Barnet (LBB) holds the information requested.**

**Two separate letters have been received from Leonard Cheshire Disability (LCD) relating to the provider's desire to pay a fair wage and their general support of a living wage within the social care sector.**

Further, could you please provide me with a copy of the correspondence (or, to be technically correct under the FOI Act, could you provide me with the information contained in the correspondence, preferably in the form of a copy of the actual correspondence.)

Within the initial correspondence LCD states:

**“Leonard Cheshire Disability is the UK’s largest voluntary sector provider of services to disabled people. We support thousands of people with physical and learning disabilities across the UK, providing care in people’s own homes, supported rented accommodation, residential homes and day centres, as well as through respite services.**

**Along with the majority of social care providers, we recognise that our care staff are our greatest asset and believe that they should be paid a fair wage for the essential work they do. *“Paradoxically the lowest paid care workers are those who we expect to work the most independently, walking into the homes of strangers and [tackling] what they find there without any direct supervision. Calling this ‘basic’ care does not reflect the fact that getting it right is a deeply skilled task.”* Cavendish review, July 2013**

**In recent months we have sought to highlight this important issue through work with both the Demos Commission on Residential Care and the LGiU’s Burstow Commission on the Future of the Homecare Workforce. We fully support the recommendation of both commissions that social care should become a living wage sector.**

**While we recognise that this relies on a sustainable funding settlement from central government, I would welcome an opportunity to discuss this further with you, including ways in which we can work together to address this important issue for the sector.”**

**LCD’s correspondence also highlights the provider’s need to raise their fees by 3.1% due to the cost pressures faced.**

**Further correspondence from LCD referred to an increase in the National Minimum Wage of 9.6% since 2010 and 3.0% in the last year and how this puts considerable pressure on its workforce and the pay rates it is able to offer. LCD stated that they always seek efficiencies in non-staff costs, but the cost of employing staff continues to rise above inflation levels.**

**Further information was provided to LBB in the form of a business case, including unit costs.**

**We are withholding information about LCD’s business case, unit costs and details of price changes since we consider that it is commercially sensitive and therefore exempt under section 43 of the Freedom of Information Act.**

**Section 43(2) of the Freedom of Information Act states that Information is exempt information if its disclosure under this Act “would”, or “would be likely to” prejudice the commercial interest of any person (including the public authority holding it).**

**We consider that both the council’s and LCD’s interests would likely be prejudiced by disclosure of the withheld information.**

## Public interest test

Even where Section 43(2) is engaged, we must still release the information unless the public interest in maintaining the exemptions outweighs the public interest in disclosure.

This extra step is known as the “public interest test”. In applying this test we have considered the following factors:

<b>Factors in favour of disclosure</b>	<b>Factors in favour of withholding under Section 43(2) FOI Act</b>
<ul style="list-style-type: none"><li>- The general public interest in the promotion of transparency, accountability, public understanding and involvement in the democratic process.</li><li>- The benefits to carers of transparency around how their wages are calculated and funded.</li></ul>	<ul style="list-style-type: none"><li>- The council negotiates with its providers to get the best value for money. Disclosure of this information may prejudice the councils’ ability in future negotiations with other providers.</li><li>- We have sought LCD’s views on disclosure and they have advised that disclosure would undermine their commercial position.</li><li>-The council’s reputation with its providers may also be affected if the details of the pricing are made available under FOI.</li></ul>

**Whilst there are arguments on each side, in the circumstances of the case, the public interest favours withholding this information.**

## Further information

If you are interested in the data that the council holds, we recommend that you take a look at Open Barnet, the council’s data portal. This is an important tool in pushing forward Barnet’s Transparency Agenda, bringing together all our published datasets and other information of interest on one searchable database for anyone, anywhere to access: <http://open.barnet.gov.uk/>

## Your rights

If you are unhappy with the way your request for information has been handled, you can request a review within the next 40 working days by writing to the FOI Officer at: The London Borough of Barnet, North London Business Park, Oakleigh Road South, London, N11 1NP (email [foi@barnet.gov.uk](mailto:foi@barnet.gov.uk)).

If, having exhausted our review procedure, you remain dissatisfied with the handling of your request or complaint, you will have a right to appeal to the Information Commissioner at: The Information Commissioner’s Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF (telephone: 0303 123 1113; website [www.ico.org.uk](http://www.ico.org.uk)). There is no charge for making an appeal.