



Ms Lily Kerrigan

Information Management
Shire Hall
Warwick
CV34 4RL

Telephone 01926 412211

Email xxxxxxxxxxx@xxxxxxxxxxxxx.xxx.xx

Please ask for Bruce Green

Our ref: 4236560

Your ref:

Date: 18th March 2019

Dear Ms Kerrigan

Freedom of Information Act 2000

Your request for information has been considered by Warwickshire County Council under the Freedom of Information Act 2000. I can confirm that the information you have requested is held by Warwickshire County Council.

However, please be advised we are unable to provide all of the information you have requested. This is because we would consider that some of the information you have requested is exempt under Section 40 (Personal Information) of the Freedom of Information Act 2000.

In addition, we would consider that some of the information you have requested is exempt under Section 43 (Prejudice to Commercial Interests) of the Freedom of Information Act 2000. Please see below for further details and explanation.

You asked us:

Under the Freedom of Information Act 2000:

Please can you provide me with the name of the current educational placement (school) of any young people, 16 years of age and under, with educational health care (ehc) plans or statements, placed in independent or non-maintained provision?

I would like you to supply me with the information requested for the previous academic year - 2017/18.

Please see the Excel spreadsheet 'Fol_4236560_ResponseDoc' attached to our covering e-mail. Please note - each part of the request is answered on a separate tab of the spreadsheet.

I would ask you to provide the information in an excel document, broken down under the following headings:

- Category of Need (SEMH, ASD, etc.)

- Name of School

An exemption under Section 40 of the Freedom of Information Act 2000 (Personal Information) has been applied to any data sample less than 10, due to the increased risk of the identification of individual vulnerable children.

We would consider that Section 40(2), (Personal Information) would apply because we believe the disclosure of this information to a member of the public would contravene one of the data protection principles, in that the benefits of disclosure are not proportionate to any potential harm, distress or intrusion to the individuals should they be identified.

The information is personal data as defined by the Data Protection Act 2018 (DPA). As it is information about someone else I'm unable to give this to you. Release of this information would constitute a breach of the DPA.

The first condition is that the disclosure of the information to a member of the public otherwise than under this Act:

- (a) would contravene any of the data protection principles, or
- (b) would do so if the exemptions in section 24(1) of the Data Protection Act 2018 (manual unstructured data held by public authorities) were disregarded.

The second condition is that the disclosure of the information to a member of the public otherwise than under this Act would contravene Article 21 of the GDPR (general processing: right to object to processing).

Therefore, please treat this letter as a Refusal Notice in accordance with Section 17 of the Freedom of Information Act, in respect of data samples less than 10 in number.

- Type of placement (e.g. Day or residential placement)

- Cost of placement per year

An exemption under Section 43 (Prejudice to Commercial Interests) of the Freedom of Information Act 2000 has been applied to the cost of individual placements.

We consider that that an exemption under Section 43(2) would apply to this information as disclosure of the information in question could prejudice third parties' commercial interests. This is because the information in question could enable a competitor to gain an unfair advance in terms of securing future placements.

The Council has considered representations made by third parties involved and agrees that disclosure could prejudice their commercial interests and is therefore exempt under the Act. In applying this exemption, we have had to balance the public interest in withholding the information against the interest in favour of disclosure.

Factors in favour of withholding:

The reason why the public interest favours withholding disclosure is that it is not in the public interest for the Council to deter future suppliers from bidding for future contracts as this may mean that the Council does not get the best deal and therefore is not spending public money as efficiently as it could be.

In addition, it is not in the public interest for suppliers to withhold information from future tender submissions because they are concerned about future disclosure, as this would mean the Council cannot make an informed decision when choosing a supplier and therefore may not get the best deal.

Finally, it is in the public interest to ensure fair commercial competition in a mixed economy and therefore it would not be in the public interest to affect competition by giving one potential supplier an unfair advantage.

Factors in favour of disclosure:

The Council does recognise that there are argument(s) in favour of disclosure, which are as follows:

- Transparency in respect of how the Council spends public money;
- Enabling public scrutiny in ensuring that the Council is securing the best use of public resources.

Nevertheless the Council considers that, in all circumstances, on balance the public interest favours withholding the information at this time.

Therefore, please treat this letter as a Refusal Notice, in accordance with Section 17 of the Freedom of Information Act 2000, in respect of this part of your request.

I would be grateful if you could send your response in csv. or Excel format within the 20 day reply period.

If you are dissatisfied with the handling of your request, you have the right to ask for an internal review. Internal review requests should be submitted within 40 days of the date of receipt of the response to your original letter and should be addressed to:

Information Management

Shire Hall

Warwick

CV34 4RL

xxxxxxxxx@xxxxxxxxxxxxx.xxx.xx

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at:

The Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF
Phone: 0303 123 1113
Website: www.ico.gov.uk

I will now close your request as of this date.

Yours sincerely

Bruce Green
Information Rights Officer