



Lily Kerrigan

Information Management
Shire Hall
Warwick
CV34 4RL
Telephone 01926 412211
Email brucegreen@warwickshire.gov.uk

Please ask for Bruce Green

Our ref: 7144144

Your ref:

Date: 13th September 2021

Dear Lily 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 consider that some of the information you have requested is exempt under Section 40 (Personal Information), and Section 43 (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, I would like you to supply me with the information requested for the previous academic year - 2020/2021.

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 (EHCP) plans or statements, placed in independent or non-maintained provision?

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?

- Type of placement - (Day or residential placement)?

Please see the Excel spreadsheet 'Fol_7144144_ResponseDoc' attached to our covering e-mail.

Within the spreadsheet you will see some pupil number data represented as '<10' (less than 10). An exemption under Section 40 (Personal Information) of the Freedom of Information Act 2000 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, and as it is information about someone else I'm unable to give this to you, as the release of this information would constitute a breach of the Data Protection Act 2018.

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 to answer these parts of your request.

- Cost of placement per year?

Warwickshire County Council would not be willing to release details of individual placement costs. In refusing to provide this information we have applied exemption Section 43(2) (Prejudice to commercial Interests) of the Freedom of Information Act 2000.

We consider that this exemption applies because disclosure of the information in question could prejudice third parties' commercial interests in a free market place. This is because the information in question could enable one service provider to gain an unfair advantage in terms of securing future contracts by allowing them to see the price a competitor is charging for specific services.

It would also allow service providers to see the prices that the council was willing to pay for specific services, and this would restrict the councils' ability to secure the best value

for money when making future placements of this type, therefore release of this information would prejudice the councils' commercial interests.

In applying this exemption we have had to balance the public interest in withholding the information against the interest in favour of disclosure. The reason why we consider the public interest favours withholding disclosure is that it is not in the public interest for the Council to deter suppliers from bidding for future contracts, or providing the best possible rates, 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.

Also, 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.

However, the Council does recognise that there are arguments in favour of disclosure, such as; transparency in respect of how the Council spends public money, and 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 the information required to answer the 'cost of placement per year' 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.

Yours faithfully.

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
inforights@warwickshire.gov.uk

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 faithfully

Bruce Green
Information Rights Officer