



SEND Crisis Warwickshire

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

Please ask for Bruce Green

Our ref: 6667872

Your ref:

Date: 13th May 2021

Dear SEND Crisis Warwickshire

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 some of the information is exempt under Section 36 (Prejudice to the effective conduct of public affairs) of the Freedom of Information Act 2000.

Also, some of the information is exempt under Section 40 (Personal Information) of the Freedom of Information Act 2000.

Please see below for further details and explanation.

You asked us:

Please supply copies of all Minutes taken at any and all monthly and quarterly Board meetings of the SEND & Inclusion Board and Corporate Board from January 2020 to March 2021 inclusive.

Yours faithfully.

We have dealt with your request in two parts:

SEND & Inclusion Board Minutes.

Please note: The 'SEND & Inclusion Board' was renamed 'SEND & Inclusion Partnership' in September 2020.

Please see the following 8 PDF documents attached to our covering e-mail:

Fol_6667872_SENDandInclusionBoard_Feb20
Fol_6667872_SENDandInclusionBoard_May20
Fol_6667872_SENDandInclusionBoard_July20
Fol_6667872_SENDandInclusionPartnership_Sept20
Fol_6667872_SENDandInclusionPartnership_Oct20
Fol_6667872_SENDandInclusionPartnership_Dec20
Fol_6667872_SENDandInclusionPartnership_Feb21
Fol_6667872_SENDandInclusionPartnership_March21

The names of most staff attending these meetings have been removed from these documents. Warwickshire County Council would usually provide staff information down to Tier 3 level (Service Manager). This is because the more senior the member of staff, the less likely this is to be unfair processing of personal data under the Data Protection Act 2018. However, the Council is unwilling to disclose the names of more junior members of staff, which is likely to constitute unfair processing of personal data under the Data Protection Act 2018.

Therefore, the names of staff below Tier 3 level are exempt from disclosure under Section 40(2) (Personal Information) of the Freedom of Information Act 2000.

The information is personal data as defined by the Data Protection Act 2018 and as it is information about someone else we are unable to give this to you, as 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 General Data Protection Regulation (general processing: right to object to processing).

Also, within the minutes of 1st July 2020 the name of a school has been removed as reference is made to the actions of parents of children at this school. This information is also exempt from disclosure under Section 40(2) (Personal Information) of the Freedom of Information Act 2000.

Please treat this letter as a refusal notice in accordance with section 17 of the Freedom of Information Act 2000, in respect of the names of staff below Tier 3 level, and the school name, as outlined above.

Corporate Board Minutes.

This information is exempt under Section 36 of the Freedom of Information Act 2000 (Prejudice to the effective conduct of public affairs) on the basis that, in the opinion of the Council's qualified person, disclosure of it would be likely to inhibit the free and frank exchange of views for the purposes of deliberation.

Corporate Board is comprised of the senior officers who meet to consider issues of key strategic importance to the Council. The information presented to Corporate Board comprises a set of detailed reports which set out, amongst other things, the issues, the options considered, the risks, the legal and financial implications.

Matters of strategic importance to the Council are discussed openly and frankly at Corporate Board meetings. Discussion is held in this arena before matters are formally put to elected members for decision making. These meetings are therefore an important and 'safe' space in which senior officers can deliberate and discuss matters affecting all elements of the Council's functions, some of which have far reaching implications for service delivery. It is important, if not critical, to maintain the ability for officers to express themselves openly, honestly and completely when giving their views as part of the process of deliberation during Corporate Board meetings. If such minutes were to be disclosed and made public, officers would be likely to feel less inclined to discuss matters openly and frankly at these internal meetings, which would in turn be likely to impair the quality of decision making by the Council.

In addition, the Corporate Board minutes requested are all recent (from the past 15 months) and so contain discussions about projects and Council matters that are still live and in some cases have not yet come forward for elected member decision making. In many cases therefore, the process of deliberation on such matters is still ongoing. Disclosing such minutes at this stage is therefore likely to directly impact upon Corporate Board's ability to continue to have full and frank discussion about those matters and come to a final view. It may also give inaccurate and / or misleading information to members of the public especially in cases where the final conclusions had not been reached. In addition, at the point in time that such matters come forward for elected member decision making, the details would (unless they qualified as an exempt decision) be made public pursuant to The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

Therefore, in the opinion of the Council's qualified person, disclosure of the information in response to this request would be likely to inhibit the free and frank exchange of views for the purposes of deliberation and exemption in section 36(2)(b)(ii) of the Freedom of Information Act 2000 is engaged.

The public interest test applies to this exemption. We have considered the factors in favour of disclosure and the factors in favour of withholding the information.

Factors in favour of disclosure:

There is a presumption in favour of making decision making made by public bodies open and transparent, which could extend to include all internal documentation leading to a decision-making point.

There is an argument that due to their seniority, Corporate Board officers would not easily be deterred from expressing their views by the possibility of future public

disclosure of minutes. It is also possible that the possibility of future disclosure could actually lead to better quality decision-making.

Some of the matter discussed in Corporate Board minutes may no longer be on-going matters. For those matters, there is an argument that disclosure would no longer hinder the free and frank exchange of views.

Factors in favour of withholding:

There is a strong public interest in quality decision-making by the Council. The ability for senior officers to have free and frank discussions about matters of strategic importance to the Council is a key part of that process. The Council needs to have a safe space in which to exchange views, debate ideas, form conclusions and reach decisions away from external involvement and public debate. Disclosure of the minutes would invite external analysis of the internal discussion at Corporate Board, which is likely to have an impact on the effectiveness of the Council's decision-making process and ultimately impact on the outcomes for Warwickshire residents.

The Council has considered the public interest test and believes that the public interest lies in withholding the documents requested. In forming this view, careful consideration has been given to both sides of the arguments set out above. On balance, the Council considers that the factors in favour of withholding the documents outweigh those put forward in favour of disclosure of the information requested.

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 'Corporate Board Minutes' part of your request.

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