

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 28 February 2023

Public Authority: Wrexham County Borough Council

Address: Guildhall
Wrexham
LL11 1AY

Decision (including any steps ordered)

1. The complainant requested information from Wrexham County Borough Council (the public authority). The Commissioner's decision is that the public authority is entitled to rely on section 40(2) of FOIA to withhold all of the requested information.
2. The Commissioner does not require the public authority to take any steps.

Request and response

3. On 28 April 2022, the complainant made the following request for information to the public authority:

"I am writing to request information under the Freedom of Information Act relating to the cost of children's residential placements in the UK.

Please can you tell me:

1. What is the most expensive residential care placement you have had to commission for a single child in the past five years, when was it, how long was it for and what specialised services were being provided for that cost? (eg £10k a week for six months for a 13-year-old girl with autism subject to a deprivation of liberty order who was deemed a danger to herself and others).

Please indicate if it was a private placement or local authority run provision.

2. How often in the past five years have you had to pay at least £10,000 a week per child? Please break down the answer by year and indicate whether the placements were private or local authority."

4. The public authority refused to provide all of the requested information citing section 40(2) (personal information) of FOIA as its basis for doing so.

Reasons for decision

Section 40 - personal information

5. This reasoning covers whether the public authority was correct to apply section 40(2) of FOIA to the request.¹
6. Section 40(2) says that information is exempt information if it is the personal data of another individual and disclosure would contravene one of the data protection principles. The two main elements of personal data are that the information must relate to a living person and that the person must be identifiable.
7. In this case, the Commissioner is satisfied that the withheld information is personal data because the requested information relates to child residential care placements and the level of detail requested could be used to identify individuals.
8. In the case of a FOIA request, the personal data is processed when it is disclosed in response to the request. This means that the information can only be disclosed if to do so would be lawful, fair and transparent.
9. When considering whether the disclosure of personal information would be lawful, the Commissioner must consider whether there is a legitimate interest in disclosing the information, whether disclosure of the information is necessary and whether these interests override the rights and freedoms of the individuals whose personal information it is.

¹ <https://www.legislation.gov.uk/ukpga/2000/36/section/40>

10. The Commissioner considers that the complainant is pursuing a legitimate interest and that disclosure of the requested information is necessary to meet that legitimate interest.
11. However, the public authority has confirmed that whilst it holds the information, disclosure of the information, at the level of detail for the information requested will disclose third party personal data. Therefore, the Commissioner considers that the third party has a strong and reasonable expectation that their information relating to their residential care placement will remain confidential.
12. The Commissioner acknowledges that the complainant attempted to refine the scope of their request but this was not sufficient to warrant disclosure.
13. The Commissioner has determined that there is insufficient legitimate interest to outweigh the fundamental rights and freedoms of the third party. Therefore, he considers that there is no legal basis for the public authority to disclose the requested information and to do so would contravene a data protection principle; that set out under Article 5(1)(a) of the UK General Data Protection Regulation.
14. The Commissioner's decision is that the public authority is entitled to rely on section 40(2) of the FOIA to refuse to provide the requested information. The Commissioner requires no further action to be taken by the public authority in relation to this request.

Right of appeal

15. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals,
PO Box 9300,
LEICESTER,
LE1 8DJ

Tel: 0203 936 8963
Fax: 0870 739 5836
Email: grc@justice.gov.uk
Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

16. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
17. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Signed

Michael Lea
Team Manager
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Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF