

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 3 February 2023

Public Authority: City of Wolverhampton Council
Address: Civic Centre
St Peter's Square
Wolverhampton
WV1 1SH

Decision (including any steps ordered)

1. The complainant requested information from Wolverhampton Homes, which is an Arm's Length Management Organisation that manages council homes on behalf of City of Wolverhampton 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 23 January 2022, the complainant made the following request for information to the public authority:

"Recently [address redacted] was bought back by the council and at this point the flat was renovated.

Please supply the cost of the initial renovation of [address redacted] and also the cost incurred to reinstate the property when the initial tenant moved from there to [address redacted]. Please also supply the cost of renovating [address redacted] prior to the current tenant occupying the flat."

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. Information will relate to a person if it is about them, linked to them, has biographical significance for them, is used to inform decisions affecting them or has them as its main focus.
8. In the circumstances of this case and having considered the withheld information, the Commissioner is satisfied that if the information requested were disclosed it could identify individuals. Namely, tenants of the properties in question.
9. 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.
10. 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.
11. The Commissioner considers that the complainant is pursuing a legitimate interest but that disclosure of the information through FOIA is not necessary to satisfy it. The reasons for this are set out below.

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

12. The Commissioner recognises that there is a broad interest in the public authority being transparent and accountable with regard to its properties and the money it spends on them. In order to meet these broad interests the public authority proactively publishes information, including performance data, about council and social housing within Wolverhampton. Disclosure of the requested information is therefore not considered necessary to achieve this interest.
13. There is also an interest in ensuring that tenants are being treated fairly. In order to meet this interest there are mechanisms available to social housing tenants to challenge their landlords if they believe they are being treated unfairly. These mechanisms would require less intrusion into the privacy of the tenants themselves, than disclosing information to the world at large. Therefore disclosure is not considered necessary to meet this interest.
14. The Commissioner notes that the complainant is a tenant in the block of flats referenced in the request and could therefore be pursuing a more private interest. However, the complainant did not identify to the public authority, or the Commissioner, any personal interest they might have in the information. In any event, the Commissioner would struggle to identify any private legitimate interest they might have which would necessitate publication of such information.
15. The Commissioner's decision in this case is that disclosure is not necessary to meet the legitimate interest in disclosure. The Commissioner therefore considers that disclosing the requested information would be unlawful as it would contravene a data protection principle; that set out under Article 5(1)(a) of the UK General Data Protection Regulation. The public authority was therefore correct to apply section 40(2) of FOIA to this request.

Right of appeal

16. 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

17. 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.
18. 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
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