

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 13 February 2023

Public Authority: Vale of White Horse District Council
Address: 135 Eastern Avenue
Milton Park
Milton
OX14 4SB

Decision (including any steps ordered)

1. The complainant requested from Vale of White Horse Council ("the Council") information relating to the accounts for a mobile home park that is run by the Council. The Council withheld the requested information under section 43(2) (commercial interests) of FOIA.
2. The Commissioner's decision is that the Council is entitled to withhold the requested information under section 43(2).
3. The Commissioner does not require the Council to take any steps.

Request and response

4. On 25 February 2022, the complainant wrote to the Council and requested information in the following terms:

"At the Parish Council meeting yesterday evening, the subject of mobile homes was discussed, with particular reference to the proposed rent increase in April. Pebble Hill and Woodlands Park are both within the parish of Radley.

The Council understood from Councillor [name redacted by ICO] that you are in the process of preparing accounts for the parks and I have been asked to formally request a copy of those reports as soon as they are ready. This will help the Council to see what level of surplus, or loss, the Vale makes from these parks."

5. The Council responded on 24 April 2022. It stated that the information was withheld under section 43(2).
6. Following an internal review, the Council wrote to the complainant on 27 May 2022. It maintained the application of section 43(2).

Reasons for decision

7. This reasoning covers whether the information could be withheld because it was commercially sensitive.
8. Information can be withheld under section 42(3) of FOIA if disclosure would prejudice the commercial interests of any person, including the public authority holding it.
9. At the time of the request, the Council explained that it considered the disclosure of the information would prejudice its commercial interests as the operator of a mobile home park. The Council further explained that there are other mobile home park operators in the same area, and that the disclosure of the information, which shows the revenue, costs, and charges associated with the park, would allow competitors insight into the Council's operation of the park, as well as encourage tenants to dispute the amount of their rent and any increases.
10. The Commissioner has considered the Council's position and is satisfied that it is operating in a commercial activity. The Commissioner is also satisfied that the disclosure of the information would prejudice the Council's commercial interests by revealing its costings to local competitors, who would be able to use this information to seek a commercial advantage over the Council. The Commissioner has therefore concluded that section 43(2) is engaged and must go on to consider the public interest test.
11. The Commissioner recognises that there is public interest that the Council operates transparently and is accountable to the public for the commercial work that it undertakes with public resources. Disclosure of the information would allow scrutiny of how the Council manages its business, and specifically within the context of proposed rent increases,

which the Commissioner understands is the reason behind the complainant's request.

12. However, the Commissioner also recognises that there is a public interest that the Council is able compete commercially with other providers, who will not be subject to the terms of the FOIA. Should this not be the case, it would damage the viability of the Council's business. The Commissioner also understands that the Council has referred the complainant to other information that it has published about the basis for the rent increases.
13. The complainant has informed the Commissioner that he understands accounts for the mobile home park were previously published by the Council during the 1990s and early 2000s. However, whilst this has been noted, the Commissioner must make this determination based on the circumstances present at the time of the request.
14. It is also relevant for the Commissioner to note that there is no evidence available to him that indicates that the Council is acting improperly in the management of the business, and which would increase the public interest in disclosure.
15. On balance therefore, the Commissioner finds that the public interest favours maintaining the section 43(2) exemption in this case.

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

Daniel Perry
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF