

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 26 October 2022

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 City of Wolverhampton Council ("the Council") relating to the age of individuals employed by the Council and contracts awarded by the Council for the provision of medico-legal witness expert reports.
2. The Council provided the complainant with some information within the scope of questions 1 and 2 of the request but denied holding information within the scope of question 3 of the request.
3. The Commissioner's decision is that the Council does hold information within the scope of question 3 of the request.
4. The Commissioner requires the Council to take the following steps to ensure compliance with the legislation.
 - The Council must issue a fresh response to the request following searches aimed at identifying all the information held within the scope of question 3 of the request
5. The Council must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of FOIA and may be dealt with as a contempt of court.

Request and response

6. On 12 August 2021, the complainant wrote to the Council and requested information in the following terms (numbering added by the Commissioner):

"I am writing to you under the Freedom of Information Act 2000 to request the following information from Wolverhampton Council. Please would you provide me with the following information:

1. The ages of all people recruited and appointed to posts in Wolverhampton Council, through both internal and external recruitment means, for each of the years 2019 and 2020 and 2021 - as anonymised, raw data
2. The ages of all people recruited to posts at Grade 8 and above in Wolverhampton Council in each of the years 2019 and 2020 and 2021 - as anonymised, raw data
3. Details of the award of any contracts by Wolverhampton Council, and by Wolverhampton Council under the auspices of the West Midland Combined Authority (WMCA), for the provision of medico-legal witness expert reports stating the organisations contracted to provide such services in 2021

Please provide the information requested in the form of an email response within 20 working days of the date of this request.

If it is not possible to provide the information requested due to the information exceeding the cost of compliance limits identified in Section 12, please provide advice and assistance, under the Section 16 obligations of the Act, as to how I can refine my request.

If you can identify any ways that my request could be refined I would be grateful for any further advice and assistance."

7. The Council provided the complainant with information within the scope of questions 1 and 2 of the request but denied holding information within the scope of question 3 of the request.

Reasons for decision

8. This reasoning covers whether the Council is correct when it says that it does not hold information within the scope of question 3 of the request.

9. In their complaint to the Commissioner, the complainant stated that they consider the Council to hold information within the scope of question 3 of their request.
10. The complainant explained that they are aware of at least one instance where the Council awarded a contract for the provision of medico-legal expert witness reports. The complainant believes that a contract was awarded to 'Psychiatric Experts' in May 2021 by a solicitor within the Council's legal department. The complainant considers the Council to hold information relating to that contract.
11. The complainant also considers that the Council may hold information relating to other contracts awarded for the provision of medico-legal expert witness reports which they are not aware of.
12. The Council considers that it does not hold information within the scope of question 3 of the request and has provided the Commissioner with information to explain the searches it has conducted for the requested information.
13. The Council explained that as the Procurement Team is responsible for maintaining records relating to the procurement of services and any contracts awarded, it conducted a search of the Procurement Team's shared drive and contracts database for information within the scope of question 3 of the request using search terms such as "Medico Legal". The Council explained that as staff within the Procurement Team are required to keep information relating to business activities in the relevant official filing system in line with the Council's records management policy, no information within the scope of question 3 of the request would be held in staff members' personal email accounts.
14. The Council explained that when searching for information within the scope of question 3 of the request, it consulted staff members within the Procurement Team who may have worked on projects involving Medico-Legal reports to ask them whether they were aware of any information which may fall within the scope of question 3 of the request however staff were not aware of any information.
15. The Council explained that the Head of Procurement, a Senior Procurement Analyst and the Procurement Business Partner for Social Care also carried out searches for information within the scope of question 3 of the request however, no information was located.
16. The Council also provided the Commissioner with information to explain the specific searches it has carried out for information relating to a contract with Psychiatric Experts for the provision of medico-legal expert witness reports. The Council explained that when conducting its search

for information relating to a contract with Psychiatric Experts, the Council consulted a solicitor within the Council's legal department who confirmed that Psychiatric Experts did produce a medical report for the Council.

17. The Council explained that Psychiatric Experts' services were procured using a one-off purchase order. Whilst the Council considers a purchase order to constitute a contract, as the purchase order was for a single business transaction, it does not consider information relating to that purchase order to fall within the scope of question 3 of the request.
18. The Commissioner considers the purchase order used to procure the services of Psychiatric Experts to constitute a contract. This position is accepted by the Council. As the purchase order used to procure the services of Psychiatric Experts for the provision of medico-legal witness expert constitutes a contract, the Commissioner considers that any information held by the Council relating to that purchase order falls within the scope of question 3 of the request and should have been either disclosed to the complainant in response to the request, or been the subject of a refusal notice.
19. Therefore, the Commissioner's decision is that on the balance of probabilities the Council does hold information falling within the scope of the request.
20. The Commissioner requires the Council to issue the complainant with a fresh response to question 3 of their request following searches aimed at identifying all the information held within the scope of question 3 of the request. All information falling within the scope of question 3 of the request should either be disclosed to the complainant or an adequate refusal notice should be provided.

Right of appeal

21. 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: 0300 1234504

Fax: 0870 739 5836

Email: grc@justice.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

22. 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.
23. 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

Ben Tomes
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF