

Response to Request for Information

Reference FOI 003503
Date 24 April 2019

Pensions and non-disclosure agreements

Request:

Can you please provide details of the following:

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- i) Amount paid out in all pensions for the years 2017/18 and 2018/19?
We can confirm that the department holds information that you have asked for in relation to the above. However, the information is exempt under section 21 of the FOI Act because it is reasonably accessible to you, and I am pleased to inform you that you can access it on our website via the following link:

2017-18 figures - this information is available in our 2018 annual report and accounts, on our website <http://www.wmpfonline.com/annualreports>

Section 21(1) of the Freedom of Information Act exempts disclosure of information that is reasonably accessible by other means, and the terms of the exemption mean that we do not have to consider whether or not it would be in the public interest for you to have the information.

You can find out more about Section 21 by reading the extract from the Act, available at: <http://www.legislation.gov.uk/ukpga/2000/36/section/21>

2018-19 figures - We can confirm that City of Wolverhampton Council hold the information requested however a Section 22(1)(a)(b)(c) – Information Intended for Future Publication exemption has been applied to the data thereby exempting its release.

Section 22((a)(b)(c) – Information intended for Future Publication

“(1) information is exempt information if-

- (a) The information is held by the public authority with a view to its publication, by the authority or any other person, at some future date (whether determined or not)
- (b) The information was already held with a view to such publication at the time the request for information was made, and
- (c) It is reasonable in all circumstances that the information should be withheld from disclosure until the date referred to in paragraph”

Section 22 is a qualified class-based exemption and consideration must be given as to whether there is a public interest in providing the information prior to the anticipated publication.

Public Interest Test

City of Wolverhampton Council is committed to recognise there is a strong public interest to demonstrate openness, transparency and accountability with regards to the Freedom of Information legislation particularly in relation to an individual's right to know. We recognise that disclosure would provide reassurance that the City of Wolverhampton Council is processing the requests that it receives in a timely manner particularly as it would indicate how we are meeting our obligations as outline in the provisions of the Act.

Considerations favouring Non-Disclosure

City of Wolverhampton Council is committed to publishing information however we do not consider that it is in the public interest to place information into the public domain, prematurely, before pre-publication procedures have taken place.

We have therefore reached the view that, on balance, the public interest is better served by withholding this information under Section 22 of the Act as this time.

- ii) The highest pension payments for 2017/18 and 2018/19?
highest amount paid for 2017/18 - £49758.40
highest amount for 2018/19 - £34.861.20

Please note that the circumstances surrounding these payments include where arrears of pension have been paid alongside the regular monthly payment

- ii) The lowest pension payments for 2017/18 and 2018/19?
lowest amount paid for 17/18 - 6p
lowest amount for 18/19 - 10p

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- i) The number of non disclosure agreements issues by the council for 2017/18 and 2018/19?
- ii) The number of non disclosure agreements issued as part of dismissal procedures for 2017/18 and 2018/19?
- iii) The number of non disclosure agreements issued as part of financial settlements for 2017/18 and 2018/19?

Your request for information has now been considered and the City of Wolverhampton Council is not obliged to supply the information you requested for the reasons set out below.

Section 17 of the Freedom of Information Act 2000 requires City of Wolverhampton Council, when refusing to provide such information (because the information is exempt) to provide you, the applicant with a notice which:

- (a) states the fact,
- (b) specifies the exemption in question and
- (c) states (if that would not otherwise be apparent) why the exemption applies:

In relation to your particular request, the following exemption applies:

Section 40 – Personal Information

We can confirm that the Council holds information falling within the description specified in your request. However, Section 40(2)(3) of the Freedom of Information Act 2000 allows a public authority to refuse a request if it asks for information 'other than that of the requester' and where disclosure would breach the data protection principles contained in Chapter 2 - Section 34 of the Data Protection Act 2018.

In respect of your request, the Council considers that to reveal this information would compromise the identity of the individuals due to small number of non-disclosure agreements and therefore this meets the definition for personal data set out in Data Protection Act 2018 as:

34 - Overview and general duty of controller

- (1) This Chapter sets out the six data protection principles as follows—
 - (a) section 35(1) sets out the first data protection principle (requirement that processing be lawful and fair);
 - (b) section 36(1) sets out the second data protection principle (requirement that purposes of processing be specified, explicit and legitimate);
 - (c) section 37 sets out the third data protection principle (requirement that personal data be adequate, relevant and not excessive);
 - (d) section 38(1) sets out the fourth data protection principle (requirement that personal data be accurate and kept up to date);
 - (e) section 39(1) sets out the fifth data protection principle (requirement that personal data be kept for no longer than is necessary);
 - (f) section 40 sets out the sixth data protection principle (requirement that personal data be processed in a secure manner).

Where information requested under the FOI Act includes information about identifiable individuals, public authorities must consider whether its release would breach the Data Protection Act.

To explain further, to disclosure details of cases of non-disclosure agreements made under the provisions of FOI is judged to be a disclosure to the wider world and here the Council must consider disclosure of personal information in line with the provisions of the DPA. We also consider individuals involved would have no reasonable expectation that their agreements would be disclosed and published to the world-at-large.

Any disclosure of this information would be judged in this instance to breach DPA principles, notably the first principle – Section 35 (1)(a) that of fair and lawful

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processing and the second principle – Section 36 (1)(b) requirement that purposes of processing be specified, explicit and legitimate. Details will therefore not be provided in this instance.