

Adult and Community Services
Data Protection & Information Officer
Email: foi@richmond.gov.uk

29 March 2016

Our Ref: e18799

Re: Request for information under the Freedom of Information Act 2000

Your request for information which was received on 9 March 2016 has been considered.

Please find our response below.

Your request:

a) addresses of properties owned or managed by the Council or Council bodies (eg housing ALMOs) and currently managed by property guardian companies such as Camelot and Ad Hoc (and are currently used as temporary housing i.e. they are not unoccupied),

b) typology of buildings referred to in (a),

c) addresses of properties not owned by the council and currently managed by property guardian companies such as Camelot and Ad Hoc (and are currently used as temporary housing i.e. they are not unoccupied),

d) names of owners of buildings referred to in (c),

d) typology of buildings referred to in (d),

Our response:

We are unable to provide the names and addresses of properties used as temporary accommodation as we believe this information could identify vulnerable individuals and put them at risk.

Please see Appendix 1 for the detailed legal reasoning behind the decision to withhold details of properties used for temporary accommodation and your right of appeal.

Kind regards

Data Protection and Information Officer

Appendix 1

Detailed legal reasoning for refusal

Section 38: Health and Safety

Section 38 provides an exemption in relation to information which, if disclosed would or would be likely to endanger the health or safety of an individual.

38 (1) Information is exempt information if its disclosure under this Act would, or would be likely to—

(a) endanger the physical or mental health of any individual, or

(b) endanger the safety of any individual.

As section 38 of the FOIA provides that information relating to the endangerment of the health and safety of an individual can be withheld, the prejudice involved in the disclosure of the requested information must therefore relate specifically to the health or safety of one or more individuals.

In this case, the requested information is for details relating to temporary accommodation. The applicable interest in this case is any persons using these accommodations and the owners of the accommodation.

When coming to a decision I was mindful of the ICO decision concerning Denbighshire County Council which can be found [here](#).

The request asked for name and addresses of accommodations used by the Council to house persons with no permanent address. The ICO considered the argument put forward by the council that they had a statutory duty to house these individuals and should the details of the accommodation become known that it would leave them vulnerable to threats from other individuals. The ICO therefore found that there was a threat to these individuals;

The Commissioner considers it would be artificial to draw a distinction between a threat to (a) the physical and mental health and (b) safety in this context. Further, the Commissioner accepts that where individuals are under threat of attacks on their physical health, this is likely to affect their mental health. Therefore where the Commissioner considers the exemption to be engaged, he considers both limbs of section 38(1) apply.

The ICO then went on to consider the likelihood of this occurring. The Commissioner acknowledges that homeless individuals in general constitute vulnerable members of society. He also considers that in the event of a violent ex-partner or a vigilante group discovering the whereabouts of ex-offenders, that there is a significant risk that this information would endanger, not only the physical and mental health and safety of the homeless individuals, but in some cases could endanger that of the hotel, guest house and hostel owners.

As section 38 is a qualified exemption, we are obliged to consider the public interest test, set out in s 2(2)(b) of the Act.

Public Interest in favour of disclosure

Over and above the general principles of transparency and accountability, especially where public funds are involved, there is a specific public interest in accountability and transparency in the Council's managing of temporary accommodation.

Public Interest in favour of maintaining the exception

There is significant public interest in preventing risk of harm to an individual and protecting the physical and mental wellbeing of individuals.

In the decision referred to above the ICO found that the balance of public interest favoured maintaining the exemption and we agree with this decision.

The Commissioner has balanced the real and significant threat to the health and safety of the homeless individuals given accommodation by DCC in the various hotels, guesthouses and hostels which would be likely to result from the disclosure of this information, against the public interest arguments in favour of disclosure.

The Commissioner does not consider that the disclosure of information to demonstrate the transparency and accountability of DCC's decision making and expenditure, justifies the risk to the individuals' health and safety. The Commissioner has therefore concluded that DCC correctly relied on section 38(1)(a) of the FOIA in respect of this request for information.

Section 40: Personal Information

If this information was to be disclosed it could be used to track individuals staying at the accommodation and steps could be taken to identify these individuals.

Therefore this information has also been withheld as the release of this information would constitute the disclosure of personal data about that individual that could be used to identify them.

The data subject has not consented to the disclosure nor would they have any reasonable expectation that this information would be disclosed to the general public.

Specifically in terms of the provisions of the Freedom of Information Act 2000 it is exempt under Section 40(2) as "personal data other than that of the requestor"

The definition of personal data is set out in section 1 of the Act and provides:

- "personal data" means data which relate to a living individual who can be identified—
 - (a) from those data, or
 - (b) from those data and other information which is in the possession of, or is likely to come into the possession of, the data controller, and includes any expression of opinion about the individual and any indication of the intentions of the data controller or any other person in respect of the individual;

In coming to this decision, I took into consideration the Data Protection Act 1998 principles.

Such information should only be processed for specified, lawful and compatible purposes and I do not consider this to be a compatible purpose [Principle 2].

Furthermore such information should be processed in accordance with the rights of the data subject who would have a legitimate expectation that the information would not be disclosed to members of the public [Principle 6].

I consider that the disclosure of this information to members of the public could cause damage or distress to the data subject. I have given regard to condition 6 of Schedule of 2 of the DPA which provides:

6 (1) the processing is necessary for the purposes of legitimate interests pursued by the data controller or by the third party or parties to whom the data are disclosed, except where the processing is unwarranted in any particular case by reason of prejudice to the rights and freedoms or legitimate interests of the data subject.

In reaching a view I have taken account of the individual's reasonable expectations of what would happen to their personal data and whether disclosure would be incompatible with the purposes for which it was obtained and whether disclosure would cause any unnecessary or unjustified damage to the individual.

In this particular case the data subjects would not have any reasonable expectation that the details would be made public.

I have concluded that it is neither in accordance with the Data Protection Act 1998 principles nor in the public interest to release details on properties used for temporary accommodation.

In accordance with the Freedom of Information Act 2000 this letter acts as a Refusal Notice in respect to the withheld information.

You have the right of appeal against the decision. If you wish to appeal please set out in writing your grounds of appeal and send to:

Corporate Complaints and Access to Information Manager
Community Engagement and Accountability Team
Adult and Community Services
3rd Floor Civic Centre
44 York Street
Twickenham
TW1 3BZ

E-mail: foi@richmond.gov.uk

If you are dissatisfied with the outcome of the internal appeal you may appeal further to the Information Commissioner's Office at:

Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF
fax: 01625 524 510
DX 20819
www.ico.org.uk