



Date: 14<sup>th</sup> January 2013

[Redacted]

**Customer and Workforce Services**

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Our reference: FOI/20086705

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Dear [Redacted]

**Freedom of Information Act 2000**

Thank you for your Freedom of Information request, which the Council received on 17<sup>th</sup> December 2012. Your request has been considered under the Freedom of Information Act 2000. You have requested the following information:

“The following requests should each be treated as individual requests.

1. Has the Council made additional payments to any employees on top of their basic weekly wage since 1 January 2007 (including, without limitation, bonuses, attendance allowances etc)?
2. If the answer to question 1 is yes in respect of which categories of jobs have such payments been made, during what periods and at what grade were and are those jobs classified as?
3. Has the Council implemented the 1997 single status agreement or 2008 equivalent? If so, when?
4. If the answer to question 3 is yes, what protection arrangements if any have been put in place and what are they?
5. Has the Council made any offers of settlement to any employees in respect of equal pay claims? If so, to what categories of employees were such offers made to and what were the terms of those offers. Were they accepted and if so, by how many employees?”

## **Our Obligation**

The Council is treating your request as a request made under the Freedom of Information Act 2000 (the "Act"). When dealing with requests for information, the Council's obligations include:

- confirming or denying whether we hold information of the description specified in the request; and
- communicating the information requested to the applicant. You should note that this is effectively a decision that the information can be released into the public domain and not simply to the specific applicant.

There are a number of exemptions that exist under the Act which impact on these obligations and where such an exemption is relied upon by the Council, this is set out further below.

## **Response to your request**

In response to your request for information, we confirm that we hold the information requested by you. In particular, the Council implemented the 1997 Single Status agreement with effect from 1 June 2005 at which point the productivity incentive schemes/bonus payments under the previous conditions ceased. The Council did provide pay protection to losers under Single Status for a maximum period of 5 years. The Council has successfully defended its pay protection arrangements at tribunal. The Council has made equal pay settlement offers, eligibility for which and the terms of which are subject to a confidentiality agreement. Given the existence of the confidentiality agreement, the sensitivity of the information and the circumstances under which the information was created, the Council considers that certain exemptions contained in the Act apply to the information requested in relation to the terms of settlement.

## **Exemptions applicable to the settlement information requested.**

### **Section 41 of the Act**

We consider that the exemption contained in section 41 of the Act applies to the information requested. This exemption applies when the information is held by the public authority and has been provided in confidence and any disclosure of the information requested would result in an actionable breach of confidence.

As noted above, the terms and settlement criteria are subject to a confidentiality agreement, the release of the confidential information requested could result in the Council being subject to legal proceedings for breach of this confidentiality agreement.

This is an absolute exemption.

## **Section 42 of the Act**

This section applies to information covered by legal professional privilege. This includes communications between lawyers and their clients or documents created by or for lawyers for the dominant purpose of litigation. The disclosure of the settlement information requested would involve releasing information that has been created by lawyers for the purpose of litigation and is therefore covered by this exemption.

This exemption is a qualified exemption and is subject to the public interest test. This requires us to balance the public interest in releasing the information into the public domain against the public interest in maintaining the exemption.

Having considered the test, it is our view that the balance of the public interest is in favour of maintaining the exemption rather than releasing the information. It is our view that the public interest inherent in legal professional privilege which safeguards openness in all communications between client and lawyer and the ability to be open and frank in documentation created by or for lawyers for the dominant purpose of litigation to ensure access to full and frank legal advice, which in turn is fundamental to the administration of justice, outweighs the public interest in releasing the information.

## **Section 43(2) of the Act**

We consider that the exemption contained in section 43(2) of the Act also applies to the settlement information requested. This exemption provides for information to be exempt information if its disclosure under the Act would, or would be likely to prejudice the commercial interests of any person (including the public authority holding it).

We consider that the release of the requested information could damage the commercial interests of the Council and the third parties to whom the settlement information relates. In addition, releasing the information would be likely to prejudice the ability of the Council to settle claims/potential claims in the future if it became known that such sensitive settlement information could be released into the public domain further to a request under the Act.

This is a qualified exemption and subject to the public interest test. Having considered this test our view is that currently the balance of the public interest is in favour of maintaining the exemption rather than releasing the information.

Please note that most of the information that you request is owned by the Coventry City Council and subject to copyright protection. Under the Re-Use of Public Sector Information 2005 Regulations you are free to use this information for your own use or for the purposes of news reporting. However, any other type of re-use under the Regulations, for example; publication of the information or circulation to the public, will require permission of the copyright owner and may be subject to terms and conditions.

For documents where the copyright does not belong to Coventry City Council you will need to apply separately to the copyright holder.

You have a right to make representations about the outcome or handling of your request – in the first instance this must be made in writing within 40 working days of the date of this letter, to the Council's Information Governance Team at:

Council House, Room 21a  
Lower Ground Floor  
Earl Street, Coventry.  
CV1 5RR  
[infogov@coventry.gov.uk](mailto:infogov@coventry.gov.uk)

If you have done the above but are still dissatisfied, you then have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at:

Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF

Yours sincerely

Jane Waterhouse  
Performance & Policy Officer