



Information Governance

Coventry City Council
PO Box 15
Council House
Coventry
CV1 5RR

www.coventry.gov.uk

Please contact Information Governance
Direct line 024 7697 5408
infogov@coventry.gov.uk

Date: 1 June 2020

Dear Sir/Madam

Freedom of Information Act 2000 (FOIA) Request ID: REQ

Thank you for your request for information relating to;

For the reasons below, Liberty is concerned about your authority's decision posted on your website to operate the "easements" provided for under Schedule 12 of the Coronavirus Act 2020 ("the Act").¹ We therefore request that you reply to this letter and provide the documents requested as soon as possible and in any event by 4pm on 7 May 2020. If this is not possible please explain why and confirm by when we may expect to hear from you.

We request copies of:

1. Your decision to operate the easements and any relevant officers' reports

Following careful consideration, it has been established that the requested information is exempt under Section 21 of the FOIA, 'information which is reasonably accessible to the applicant by other means'. The record of the initial decision is available on the City Councils website in the Council and democracy section at the following link:

<https://edemocracy.coventry.gov.uk/ecSDDisplay.aspx?NAME=SD2918&ID=2918&sch=doc>

Under our duty to advise and assist, we can confirm that at a review meeting on 27th May 2020 we made the decision to move from Stage 3 and operate under the 'pre-amendment Care Act' including continuing to only take Stage 2 actions to suspend certain services such as Day Opportunities and Travel Training. This report is included in with our response.

The DHSC will be informed, our webpages up-dated and stakeholders informed

[https://www.coventry.gov.uk/info/72/health_and_social_care/3595/adult_social_care - coronavirus act 2020 and care act easements](https://www.coventry.gov.uk/info/72/health_and_social_care/3595/adult_social_care_-_coronavirus_act_2020_and_care_act_easements)

2.Any notification made to the Department of Health and Social Care, including the date of such notification

The requested notification to the DHSC, referred to in the national Easements Guidance, was made on 28.04.20 and the email is included.

We have also included the email notifying the DHSC of the change made on 29.05.20

3.Any human rights assessment of the impact of the decision

A human rights assessment of the impact was not required as we were still able to undertake our assessments, eligibility decisions and support plans remotely using telephony and trusted assessor approaches however the usual level of detail could not be maintained and our ability to operate in a strength-based way was potentially reduced.

We were not at any time operating at stage 4, reprioritising services and therefore are not acting in such a way as to risk breaching an individual's human rights.

4.Any Equality Impact Assessment or equalities analysis of the decision

As Q3

5.Minutes of any meetings with the Local NHS Clinical Commissioning Group (CCG) leadership

We do not hold the information being requested and are advising you as per Section 1(1) of the FOIA. No formal meetings with minutes have been undertaken.

To advise and assist, the Care Act Easements Guidance for Local Authorities states that the decision should be fully informed by discussion with the Local NHS CCG Leadership this has been undertaken by the Director of Adult Services, by email exchange on 14/04/20.

6.Records of any discussions with local partners, in particular local senior NHS leadership

As above and including specific Councillors, which included the Leader of the Council and the Chair of the Health and Social Care Scrutiny Board

7.Any correspondence between your authority and the Health and Wellbeing Board

The Care Act Easements Guidance for Local Authorities states that the Health and Wellbeing Board should be kept informed, this has been undertaken by the Director of Adult Services, by email exchange on 28/04/20. This has been included.

8. Any other documents that your authority considered when reaching a decision to operate the easements

We are no longer operating under Care Act Easements.

We do have data and intelligence reports which include a host of detailed information, covering both personal and special category data in relation to assessments, operation shield and food parcels as well as procurement issues.

However, the Council has decided not to disclose this information as it falls under the following exemptions:

Section 40 (2)(3) – Personal Information which does not relate to the requester

This has been done as the Council considers that this information meets the definition for personal data set out in Section 3(2) and 3(3) of the Data Protection Act 2018 ("DPA") as:

(2) "personal data means any information relating to an identified or identifiable living individual (subject to subsection (14)(c))"

(3) "Identifiable living individual" means a living individual who can be identified, directly

or

indirectly, in particular by reference to –

(a) an identifier such as a name, an identification number, location data or an online identifier, or

(b) one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of the individual."

The Council thus considers that the requested information is caught by the exemption to disclosure contained in Section 40 (2) of the FOI Act and the related first condition of Section 40 (3).

Section 43 (2) – Commercial Interests

In respect of the information requested, the Council will not be making disclosure and is of the view that the disclosure of the requested information would be likely to prejudice the commercial interests of both the Council and individual tendering organisations taking part in the process and that Section 43 (2) of the Freedom of Information Act 2000 is engaged, where disclosure would, or would be likely to prejudice the commercial interests of any person.

In applying this exemption, the Council has balanced the public interest in withholding the information against the public interest in disclosure. In the case of the above cited information, the Council considers that the public interest in withholding this information for the reasons cited outweighs the benefits of demonstrating openness and transparency of process at this stage.

The Council always seeks value for money and makes every effort to promote fair competition. However, the Council considers that by disclosing this information during an on-going procurement process to the world-at-large, organizations that are not able to demonstrate at least the same level of innovation and initiative may benefit by claiming to undertake particular activities that they are either not able to fulfill or even have no intention to fulfill on contract implementation.

The supply of information in response to a Freedom of Information request does not confer an automatic right to re-use the information. You can use any information supplied for the purposes of private study and non-commercial research without requiring further permission. Similarly, information supplied can also be re-used for the purposes of news reporting. An exception to this is photographs. Please contact us if you wish to use the information for any other purpose.

Should you wish to make any further requests for information, you may find what you are looking for is already published on the [Council's web site](#) and in particular its [FOI/EIR Disclosure log](#), [Council's Publication Scheme](#), [Open Data](#) and [Facts about Coventry](#).

If you are unhappy with the handling of your request, you can ask us to review our response. Requests for reviews should be submitted within 40 days of the date of receipt of our response to your original request – email: infogov@coventry.gov.uk

If you are unhappy with the outcome of our review, you can write to the Information Commissioner, who can be contacted at: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF or email casework@ico.org.uk.

Please remember to quote the reference number above in your response.

Yours faithfully

Information Governance



Subject: Adult Social Care Care Act Decision Report - Care Act Easements

Date: 27th May 2020

**From: Andrew Errington Adults Principal Social Worker
Sally Caren Head of Social Work, Mental Health and Sustainability**

To: Pete Fahy – Director of Adult Services

1. Background information

- 1.1. The Coronavirus Act 2020 introduced changes to Care Act 2014 duties in order to ease pressure on Local Authorities.
- 1.2. The “Care Act easements: guidance for local authorities” (most recently updated on 20th May 2020 and available here: <https://www.gov.uk/government/publications/coronavirus-covid-19-changes-to-the-care-act-2014/care-act-easements-guidance-for-local-authorities>) sets out how local authorities can use the Care Act easements created under the Act to ensure the best possible care for people during this exceptional period.
- 1.3. A decision was made to exercise emergency functions by the Chief Executive of the City Council on 24th April 2020 to;
 - Move to operating under the Care Act easements as set out in the relevant Guidance; and
 - Delegate authority be given to Director of Adult Services (following consultation with the Principal Social Worker, the Lead Member for Adult Social Care, and the local NHS leadership team) to
 - determine when it is necessary to move between Stage 3 and Stage 4 of the easements and to review any move to Stage 4 every 2 weeks,
 - notify the DHSC of the decision,
 - determine when it is no longer necessary to operate under the Care Act easements

2. Current situation in Coventry

- 2.1. Coventry City Council Adult Services needed to take Stage 2 actions to suspend certain services such as Day Opportunities and Travel Training to meet the requirements of social distancing, social isolation and with the greater risk associated with use of transport.
- 2.2. Coventry City Council Adult Services needed to take make the decision to take Stage 3 actions as;
 - Our ability to complete detailed assessments has been severely impaired and a need to prioritise requests for assessments
 - Financial assessment are being undertaken remotely using our online assessment tool however people may not be assessed as quickly as possible
 - Our ability to provide in-depth, typed care plans has been impaired and means that providers of care and support may be asked to provide support with less information that would otherwise have been the case. Through not undertaking routine scheduled reviews

the care and support people receive may not match their current support needs, however people will still be able to contact Adult Social Care to request changes to care.

2.3. Adult Services have continued to monitor data and intelligence to inform decision making on Care Act Easements and a review on 13th May 2020 identified we will no longer be using Care Act Easements for our financial assessments. Assessments are being undertaken remotely and via our on online assessment tool, this is happening without any delay and is now 'business as usual'

2.4. A further review on 27th May 2020 identified that it does not appear to warrant operating at this time under Stage 3 of the Care Act easements guidance due to no significant workforce depletion, rise in demand and/or market pressures. Evidence has identified;

- Activity on discharge pathways is comparable to same time period last year
- Waiting list activity and demand is being managed successfully
- Telephony and remote assessments are being undertaken using video conferencing, emergency reviews being undertaken and some scheduled reviews have commenced
- Enhanced and detailed risk assessments are in place to enable face to face assessments to be under taken as required
- Our internal workforce remains stable and absence is relatively low with staff continuing to return from self-isolating and sickness absences.
- Evidence of increasing market capacity and reducing sickness levels
- PPE supply remains stable and is no longer a critical issue

3. Recommendation and Summary

3.1. Therefore, the recommendation to the Director of Adult Services is that we move from Stage 3 and operate under the 'pre-amendment Care Act' including continuing to only take Stage 2 actions to suspend certain services such as Day Opportunities and Travel Training but retain the ability to use easements in the future as required due to any subsequent workforce depletion and/or surge in demand.

3.2. The DHSC will need to be notified and relevant stakeholders informed.

From:
Sent: 28 April 2020 12:05
Subject: Care Act Easements
Attachments: Coventry - Care Act easements comms.pdf

Dear Colleagues,

Please see attached a note from Pete Fahy, Director of Adult Services (Coventry CC), setting out Coventry City Council's decision to activate the Care Act easements under the Coronavirus Act 2020.

Regards

Policy & Partnerships Transformation Officer
Coventry City Council

From: Fahy, Peter
Sent: 28 April 2020 16:53
To: CareActEasements@dhsc.gov.uk
Cc: Errington, Andrew
Subject: Coventry - Care Act Easements
Attachments: Coventry - Care Act easements comms.pdf

Hi,

Please attached document confirming Coventry activation of care act easements and our position against each one.

Best regards

Pete Fahy
Director of Adult Services
Coventry City Council
One Friargate
Station Square
CV1 2FL

www.coventry.gov.uk

From: Fahy, Peter
Sent: 29 May 2020 15:51
To: CareActEasements
Cc: Errington, Andrew
Subject: RE: Coventry - Care Act Easements

Hi

I am writing to inform you that Coventry has moved back to level 2 and are therefore operating again under care act 'normal'

Best regards

Pete Fahy
Director of Adult Services
Coventry City Council
One Friargate
Station Square
CV1 2FL

www.coventry.gov.uk

From: CareActEasements
Sent: 29 April 2020 09:14
To: Fahy, Peter ; CareActEasements <CareActEasements@dhsc.gov.uk>
Cc: Errington, Andrew
Subject: RE: Coventry - Care Act Easements

Hi Peter

Thank you very much for your email. I am writing to confirm receipt of your notification.

I wanted to inform you that we are going to hold the information received through every notification, including the name and work contact details of the contributor, and may share this with CQC, ADASS, LGA and other relevant parties interested in learning lessons from the use of easements. Details of which LAs are operating under easements will be published for transparency the day after notification is received. The guidance will be updated to reflect this.

Best

Care Act Easements Notifications
Department of Health and Social Care
39 Victoria St, Westminster, London SW1H 0EU
E: CareActEasements@dhsc.gov.uk

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