

**Deddf Rhyddid Gwybodaeth 2000 (y Ddeddf)
Hysbysiad penderfynu**

Dyddiad: 24 Gorffennaf 2017

Yr Awdurdod Cyhoeddus: Cyngor Bwrdeistref Sirol Wrecsam
Cyfeiriad: Neuadd y Dref
Wrecsam
LL11 1AY

Y penderfyniad (gan gynnwys unrhyw gamau y gorchmynnir eu cymryd)

1. Mae'r achwynydd wedi gofyn am amryw o wybodaeth ynglŷn â'r ysgolion sydd agosaf at bob cod post o fewn ffiniau Cyngor Bwrdeistref Sirol Wrecsam. Dadleuai'r Cyngor nad oedd yr wybodaeth yn cael ei dal at ddibenion y Ddeddf gan y byddai angen mesur o grebwyll proffesiynol i ddeall a chodi'r wybodaeth berthnasol o'r cofnodion sydd ganddo. Dadleuai hefyd y byddai codi'r wybodaeth yn mynd y tu hwnt i'r terfyn priodol o dan adran 12 o'r Ddeddf. Penderfyniad y Comisiynydd yw bod y Cyngor yn gywir nad yw'n dal yr wybodaeth at ddibenion y Ddeddf a'i fod wedi cydymffurfio â'i rwymedigaethau o dan adran 1(1) ohoni. Nid yw'r Comisiynydd yn gofyn i'r awdurdod cyhoeddus gymryd unrhyw gamau.

Y cais a'r ymateb

2. Ar 5 Ionawr 2017, ysgrifennodd yr achwynydd at y Cyngor gan ofyn am yr wybodaeth a ganlyn:

"... daenlen yn cynnwys rhes ar gyfer pob cod post o fewn bwrdeistref sirol Wrecsam gyda cholofnau yn cynnwys gwybodaeth fel a ganlyn:

A - y cod post

B - yr ysgol gynradd cyfrwng Saesneg agosaf i'r cod post

C - y pellter i'r ysgol gynradd cyfrwng Saesneg agosaf i'r cod post

CH - yr ail ysgol gynradd cyfrwng Saesneg agosaf i'r cod post

D - y pellter i'r ail ysgol gynradd cyfrwng Saesneg agosaf i'r cod post

DD - yr ysgol gynradd cyfrwng Cymraeg agosaf i'r cod post

E - y pellter i'r ysgol gynradd cyfrwng Cymraeg agosaf i'r cod post

F - yr ail ysgol gynradd cyfrwng Cymraeg agosaf i'r cod post

FF - y pellter i'r ail ysgol gynradd cyfrwng Cymraeg agosaf i'r cod post

I roi rhywfaint yn fwy o gefndir, mae'r cais hon yn cael ei gyflwyno wedi i swyddog o'r Adran Addysg dweud nad yw'n bosib cynnig mapiau sy'n dangos dalgylchoedd ysgolion yr Awdurdod...

3. Ymatebodd y Cyngor ar 26 Ionawr 2017. Dywedodd nad yw'n dal yr wybodaeth y gofynnwyd amdani gan nad yw'n defnyddio dalgylchoedd ysgol. Serch hynny, fe roddodd y Cyngor hyperddolenni i'w fapiau sy'n dangos lleoliad ei ysgolion mewn ardaloedd gwledig a threfi.
4. Yn dilyn adolygiad mewnol cadarnhaodd y Cyngor ei benderfyniad gwreiddiol nad oes ganddo daenlen a rhoddodd wybod i'r achwynydd ar 23 Chwefror 2017 nad oedd yn ofynnol i'r Cyngor greu un, gan ddarparu'r hyperddolen i ganllawiau'r Comisiynydd '*Determining whether information is held*'.

Rhychwant yr achos

5. Cysylltodd yr achwynydd â'r Comisiynydd ar 24 Chwefror 2017 i gwyno am y modd yr ymdriniwyd â'i gais am wybodaeth. Gofynnodd i'r Comisiynydd gynnal ymchwiliad i'r modd y dibynnodd y Cyngor ar ganllawiau'r Comisiynydd nad oes rhaid iddo ddatgelu ei gronfa ddata.
 6. Mae'r Comisiynydd o'r farn mai rhychwant ei hymchwiliad yw ystyried a yw'r Cyngor yn gywir wrth ddweud nad yw'r wybodaeth yn cael ei dal at ddibenion adran 1 o'r Ddeddf. Gan ei bod wedi dod i'r casgliad nad yw'n cael ei dal, nid yw wedi mynd ymlaen i ystyried y modd y dibynnodd y Cyngor ar adran 12 o'r Ddeddf wedyn.
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Y rhesymau dros y penderfyniad

Adran 1 – Hawl gyffredinol i weld gwybodaeth sy'n cael ei dal

7. O dan adran 1(1) o'r Ddeddf, mewn ymateb i gais am wybodaeth dim ond gwybodaeth a gofnodwyd ac y mae'n ei dal y bydd yn ofynnol i awdurdod cyhoeddus ei darparu ac felly nid yw'n ofynnol iddo greu gwybodaeth newydd i ymateb i gais.
8. Pan gaiff awdurdod cyhoeddus gais, y dasg gyntaf iddo fel arfer yw penderfynu a yw'n dal yr wybodaeth y gofynnwyd amdani. Mewn llawer o achosion bydd yn hawdd dod o hyd i wybodaeth, yn arbennig os yw'r awdurdod cyhoeddus yn arddel rheolaeth dda ynglŷn â chofnodion. Er hynny, fe fydd yna adegau pan fo'n anodd i'r awdurdod cyhoeddus benderfynu a yw'n dal yr wybodaeth.
9. Mewn rhai sefyllfaoedd, yr unig ffordd i fodloni ceisiadau yw os bydd yr awdurdod cyhoeddus yn codi gwybodaeth o'r cofnodion sydd ganddo. Bydd hyd a lled y rhwymedigaeth y mae'r awdurdod cyhoeddus odani i wneud hyn yn dibynnu ar y cwestiwn a oes ganddo'r blociau adeiladu i'w chreu, ac nad oes angen crebwyll cymhleth i'w llunio. Mewn achosion lle mae angen trin a thrafod y blociau adeiladu mewn rhyw fodd, er enghraifft, defnyddio fformiwla fathemategol, bydd y medr angenrheidiol yn golygu ei bod yn rhesymol i'r awdurdod cyhoeddus haeru nad yw'n dal yr wybodaeth at ddibenion y Ddeddf.
10. Yn yr achos penodol hwn, mae'r Cyngor wedi esbonio i'r Comisiynydd nad oes modd cyfrifo'r pellter ar sail maen prawf y cod post heb fesur o drin a thrafod, defnyddio barn a chreu gwybodaeth newydd, a'i fod o'r farn felly nad yw'r wybodaeth yn cael ei dal at ddibenion adran 1(1) o'r Ddeddf.
11. Mae wedi esbonio hefyd fod yr achwynydd fel pe bai o'r farn bod Adran Addysg y Cyngor yn defnyddio system i hysbysu rhieni ynglŷn â'r ysgol sydd agosaf i'w cartref (a'r ail agosaf ac ati). Mae wedi ychwanegu y byddai'n rhesymol rhagdybio, pe bai hyn yn wir, y byddai'r wybodaeth am bob cod post o fewn ei ffiniau yn bodoli mewn cronfa ddata.
12. Serch hynny, mae'r Cyngor wedi dweud nad yw'n defnyddio meini prawf ynglŷn â derbyniadau i ysgolion ar sail dalgylchoedd ac felly nad yw'n defnyddio cod post fel pwynt i gyfeirio ato wrth gyfrifo pellter gan nad yw dalgylchoedd yn cael eu defnyddio yn y broses benderfynu. Mae wedi cadarnhau bod pob cais yn cael ei wneud a'i asesu ar sail unigol ac y byddai creu gwybodaeth o'r fath yn golygu bod rhaid mewnbynnu cod post â llaw.

13. I wneud hynny, mewn ymateb i geisiadau unigol, mae'r Cyngor yn defnyddio pecyn meddalwedd o'r enw Capita One sy'n cynnwys nifer o fodiwlau a chronfeydd data, er enghraifft, Mapio GIS, sydd hefyd yn cydadweithio â chyfeirnodau'r grid cenedlaethol. Ychwanegodd fod GIS yn defnyddio 'dwyreiniad a gogleddiad' sy'n unigryw i bob cartref unigol ac yn ffordd gywirach o benderfynu pa mor gymwys yw rhywun i fynd i'w ysgol ddewisol. Mae wedi esbonio hefyd y gall cod post gynnwys nifer o gartrefi, y gall pob un fod yn agosach at ysgol wahanol, gan ddibynnu ar y cyfesurynnau.
14. Er mwyn cydymffurfio â'r cais, byddai ar y Cyngor angen rhestr gyflawn o'r codau post o fewn ei ffiniau. Byddai'n rhaid cofnodi pob cod post â llaw ar gyfer pob cartref a rhedeg chwiliad "Gweld yr ysgolion agosaf" ar gyfer y cartref hwnnw. Byddai angen cyflawni'r broses hon ar gyfer pob cartref ym mhob band o godau post o'i gymharu â chofnod prawf (cofnod disgybl ffug ar system Capita One y Cyngor). Wedyn byddai angen creu manylion pob cyfeiriad a'i ysgol agosaf a chofnodi'r rhain â llaw mewn dogfen ar wahân.
15. Mae'r Cyngor wedi rhoi gwybod i'r Comisiynydd mai nifer cyfyngedig yn unig o bobl sy'n cael defnyddio'r broses cyfrifo a mapio hon. Mae wedi cadarnhau hefyd mai dim ond chwe thrwydded ar gyfer y broses sydd ganddo ar hyn o bryd, sydd ym marn y Cyngor yn awgrym o'r angen am fedr a chrebwyll penodol wrth drin a thrafod y data wrth ddefnyddio'r teclyn.
16. Mae'r Comisiynydd wedi ystyried yr esboniad a roddwyd gan y Cyngor ac mae'n derbyn bod y Cyngor yn gywir wrth wrthod y cais ar y sail nad yw'r wybodaeth yn cael ei dal at ddibenion adran 1 o'r Ddeddf, gan y byddai angen iddo greu'r wybodaeth y gofynnwyd amdani ac y byddai'r broses o lunio'r wybodaeth honno'n gofyn mesur o fedr a chrebwyll. Gan fod y Comisiynydd wedi dod i'r casgliad nad yw'r wybodaeth yn cael ei dal at ddibenion adran 1 o'r Ddeddf, nid yw wedi mynd ymlaen i ystyried y modd y dibynnodd y Cyngor ar adran 12.

Yr hawl i apelio

17. Mae gan y naill barti a'r llall hawl i apelio yn erbyn yr hysbysiad penderfynu hwn i Dribiwnlys yr Haen Gyntaf (Hawliau Gwybodaeth). Mae gwybodaeth am y broses apelio ar gael oddi wrth:

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals,
PO Box 9300,
LEICESTER,
LE1 8DJ

Ffôn: 0300 1234504

Ffacs: 0870 739 5836

Ebost: GRC@hmcts.gsi.gov.uk

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

18. Os hoffech apelio yn erbyn hysbysiad penderfynu, gallwch gael gwybodaeth am sut i apelio ynghyd â'r ffurflenni perthnasol ar wefan y Tribiwnlys Gwybodaeth.
19. Dylai unrhyw Hysbysiad Apelio gael ei gyflwyno i'r Tribiwnlys o fewn 28 diwrnod (calendr) ar ôl dyddiad anfon yr hysbysiad penderfynu hwn.

Llofnod

**Catherine Dickenson
Uwch-swyddog Achosion
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SK9 5AF**

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 24 July 2017

Public Authority: Wrexham County Borough Council
Address: Guildhall
Wrexham
LL11 1AY

Decision (including any steps ordered)

1. The complainant has requested various information in respect of schools nearest to each postcode within Wrexham County Borough Council's boundaries. The Council argued that the information was not held for the purpose of the FOIA as it would require a degree of professional judgement to understand and extract the relevant information from the records that it holds. It has also argued that extracting the information would exceed the appropriate limit under section 12 of the FOIA. The Commissioner's decision is that the Council is correct that it does not hold the information for the purposes of FOIA and has complied with its obligations under section 1(1) of the FOIA. The Commissioner does not require the public authority to take any steps.

Request and response

2. On 5 January 2017, the complainant wrote to the Council and requested the following information:

"...a spreadsheet which contains a row for each postcode in Wrexham County Borough with columns containing information as follows:

A – the postcode

B- the English medium primary school closest to the postcode

C- the distance to the closest English-medium primary school closest to the postcode

D- the second English-medium primary school closest to the postcode

E- the distance to the second English-medium primary school closest to the postcode

F- the Welsh-medium primary school closest to the postcode

G- the distance to the closest Welsh-medium primary school closest to the postcode

H- the second Welsh-medium primary school closest to the postcode

I – the distance to the second closest Welsh-medium primary school to the postcode

To give you some more background, this application is being submitted after an officer from your Education Department said that it is not possible to offer maps showing the Authority's school catchment areas...

3. The Council responded on 26 January 2017. It stated that it does not hold the information requested as it does not operate school catchment areas. It did however provide hyperlinks to its maps showing the locations of its schools in rural areas and towns.
4. Following an internal review the Council upheld its original response that it does not hold a spreadsheet and informed the complainant on 23 February 2017 that it was not required to create one, providing the hyperlink to the Commissioner's guidance '*Determining whether information is held*'.

Scope of the case

5. The complainant contacted the Commissioner on 24 February 2017 to complain about the way his request for information had been handled. He requested that the Commissioner conduct an investigation into the Council's reliance on the Commissioner's guidance that it does not have to disclose its database.
6. The Commissioner considers that the scope of her investigation is to consider whether the Council is correct when it says that the information is not held for the purposes of section 1 of the FOIA. As she has

concluded that it is not, she has not gone on to consider the Council's further reliance on section 12 of the FOIA.

Reasons for decision

Section 1 – General right of access to information held

7. Under section 1(1) of the FOIA, in response to a request for information a public authority is only required to provide recorded information it holds and is not therefore required to create new information in order to respond to a request.
8. When a public authority receives a request, its first task is usually to determine whether it holds the requested information. In many cases it will be simple to locate information, particularly if the public authority practices good records management. However, there will be occasions when a public authority has difficulty determining whether it holds the information.
9. In some situations, requests can only be satisfied if the public authority extracts information from the records it holds. The extent to which a public authority is obliged to do this will depend on whether it holds the building blocks required to generate it, and no complex judgement is required to produce it. In cases where manipulating the building blocks in some way is required, for example, applying mathematical formula, the skill required to do so will mean that the public authority can reasonably claim that it does not hold the information for the purposes of FOIA.
10. In this particular case, the Council has explained to the Commissioner that the distance cannot be calculated on the postcode criteria without a degree of manipulation, judgement and the creation of new information, and therefore considers that the information is not held for the purposes of section 1(1) of the FOIA.
11. It has further explained that the complainant appears to be of the view that its Education Department uses a system to inform parents which school is closest to their home (and second closest and so forth). It has added that if that were the case, it would be a reasonable assumption that the information for each post code within its boundaries would exist in a database.
12. However, the Council has stated that it does not operate a school catchment area admission criteria and does not therefore use postcodes

as a point of reference when calculating distances as catchments areas are not used in the decision making process. It has confirmed that each application is made and assessed on an individual basis and to generate such information would require the manual inputting of a postcode.

13. To do this, in response to individual queries, the Council utilises a software suite called Capita One which contains numerous module and databases for example, GIS Mapping, which also interfaces with national grid references. It has added, that GIS uses 'easting and northing' which is unique to each individual property and is a more accurate way of determining eligibility to a preferred school. It has further explained that a postcode may encompass a number of properties, each of which may be closer to a different school, depending on the co-ordinates.
14. In order to complete the request, the Council would require a complete list of postcodes within its boundaries. Each postcode would have to be manually entered for each property and a search run of "View nearest schools" for that property. This process would need to be undertaken for each property within each postcode band against a test record (dummy pupil record on the Council's Capita One system). It would then need to create and manually record in a separate document details of each address and its nearest school.
15. The Council has informed the Commissioner that there are only a limited number of people who have access to this mapping calculation process. It has further confirmed that it currently holds only six licences for this process, which it considers is indicative of the need to exercise specific skill and judgement in manipulating the data using this tool.
16. The Commissioner has considered the explanation provided by the Council and accepts that as the Council would need to create the requested information and the processes of compiling this would require a degree of skill and judgement, that it was correct to refuse the request on the basis that the information is not held for the purposes of section 1 of the FOIA. As the Commissioner has concluded that the information is not held for the purposes of section 1 of the FOIA, she has not gone on to consider the Council's reliance on section 12.

Right of appeal

17. 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@hmcts.gsi.gov.uk
Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

18. 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.
19. 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

Catherine Dickenson
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
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SK9 5AF