



Neutral citation number: [2025] UKFTT 00694 (GRC)

Case Reference: FT/EA/2024/0428

**First-tier Tribunal
(General Regulatory Chamber)
Information Rights**

**Decided without a hearing
Decision given on: 17 June 2025**

Before

**JUDGE SOPHIE BUCKLEY
MEMBER KATE GRIMLEY EVANS
MEMBER AIMEE GASSTON**

Between

JAMES TIMOTHY GRIFFITHS

Appellant

and

THE INFORMATION COMMISSIONER

Respondent

Decision: The appeal is allowed in part.

Substituted Decision Notice:

Organisation: The Governing Body of Pensby High School
Complainant: Mr James Griffiths

The Substitute Decision – IC-307186-T8L3

1. For the reasons set out below:
 - a. The public authority was not entitled to rely on section 40(2) to refuse to provide the information in part 1 of the request dated 9 February 2024.
 - b. The public authority does not hold any recorded information in the scope of part 2 of the request.
2. The public authority is required to take the following steps within 30 days of the date this decision is sent to the parties:
 - a. Disclose the information in part 1 of the request.
3. Any failure to abide by the terms of the tribunal’s substituted decision notice may amount to contempt which may, on application, be certified to the Upper Tribunal.

REASONS

Introduction

1. This is an appeal by Mr Griffiths against the Commissioner’s decision notice IC-307186-T8L3 of 7 October 2024 which held that the Governing Body of Pensby High School (‘the School’) did not hold any further information within the scope of the request and was entitled to rely on section 40(2) (personal information) to withhold the information it had not provided.

Factual background

2. This request arises out of a legal claim for harassment brought by the headteacher of the School against the parents of two former pupils. The estimated costs of the legal action have been in the public domain since approximately September 2024 when the Liverpool Echo published an article including the estimated costs provided to the Court by the solicitors for the claimant. The claimant’s costs of the entire proceedings were forecast at that stage to be approximately £545,000.
3. The School has confirmed publicly that it is funding the action, but it is not publicly known whether this is in part or in full. The School have stated that any costs of the legal action paid by the School will be covered by self-generated income and not sourced from public funds.
4. The tribunal notes that in January 2025 Wirral Council confirmed publicly that £210,576.79 was paid to the relevant solicitors from the School’s account. Although that renders some part of the appeal academic, there are two parts

of the request and the tribunal deemed that it was appropriate to determine the appeal.

The request for information

5. Mr Griffiths requested the following information from the School on 9 February 2024:

“[1] The total amount to date in sterling of all the legal costs, including but not limited to solicitors’ fees, disbursements and the preparation and submission of court documents in the actions against Mr and Mrs Critchley by the Governors, Trustees and headteacher of Pensby High School.

“[2] Please break down the above to provide the amounts and the percentages of the whole of each of the following sources of funding

1. Delegated funding to the schools, ie tax-payer’s money;
2. Donations and fund-raising;
3. Contributions from the claimant(s);
4. Specified other, for example, insurance.”

6. On 10 April 2024 the School refused to confirm or deny that it held the requested information under section 40(5B) FOIA. On internal review the School confirmed that it held information within the scope of the request but relied on section 43 FOIA (commercial interests) to withhold it.
7. During the course of the Commissioner’s investigation the School provided some information relating to part 2. In relation to the information it held within part 1 it relied on section 40(2) to withhold the information.

Decision notice

8. The Commissioner accepted that the School did not fund specific activities from specific income sources. The public authority cannot apportion costs to any single source of funding because it all comes from a single pool. On that basis the Commissioner accepted that the School did not hold any information within the scope of part 2 of the request.
9. In relation to part 1 of the request the Commissioner accepted that the withheld information when combined with the request would identify the headteacher because the litigation has been the subject of several news articles and the headteacher’s name was a matter of public record.

10. The Commissioner accepted that the information related to the headteacher because the costs arise out of litigation initiated by the headteacher and related to matters involving him.
11. The Commissioner noted that the headteacher had not consented to disclosure.
12. The Commissioner recognised that there was a legitimate interest in disclosure of the information because the litigation involves a headteacher seeking an injunction against parents of a former pupil who he claims are harassing him. The Commissioner noted that significant sums of money are involved and said that there was a public interest in understanding the decision-making process.
13. The Commissioner determined that disclosure was necessary to further that legitimate interest. He noted that the School has confirmed that it does not intend to include the figure as a separate item in its published accounts so it will be difficult for parents to calculate the value of its contribution. Given the size of the sum involved, the Commissioner was not satisfied that there was a more proportionate means of achieving this aim.
14. In terms of the balance between the rights of the subject and the legitimate interest, the Commissioner recognised that there are strong arguments on both sides.
15. The Commissioner recorded that an official source (not the School) had stated that the final costs in the case are likely to exceed £500,000. Although the Commissioner noted that the figure held by the School is significantly less than this, because it only represents costs incurred to date, he said that it remains significant and is money that cannot be spent on educating children.
16. The Commissioner noted that School's argument that it owes a duty of care to its employee and that, given the exceptional circumstances, that duty warrants exceptional action to protect the employee. The Commissioner stated that this does not relieve the School of its obligation to be transparent about its decisions.
17. The Commissioner noted that the School has pointed to the numerous incidents that have taken place and which have prompted this exceptional action. These incidents have been widely reported in the press. The School has argued that publishing the information now would be likely to intensify the pressure that the headteacher is already under. The School argued that he has a reasonable expectation that this information will not be published and therefore publication would be likely to cause him significant distress as well as potentially inflaming the situation he finds himself in.
18. Overall the Commissioner concluded that the rights of the headteacher outweighed the legitimate interests in publication. He noted that the

information relates to the headteacher's personal life and that incidents have occurred outside of school hours and outside school premises. However, he said that the information also intrinsically links to the headteacher's professional because it relates to his employment and position at the public employment position public

19. The Commissioner found that a reasonable degree of transparency had already been provided by the School confirming that it holds information (thereby confirming that it is making a contribution) and by the publication of the estimated final costs. Whilst the Commissioner notes that this latter information was not provided by the School, it is in the public domain and therefore informs debate around this issue.
20. The Commissioner concluded that the balance should favour the rights of the headteacher at least whilst the litigation remains ongoing. Once the case has been determined the Commissioner concluded that it will provide important context to the public authority's decision to contribute to costs and the antagonism between the parties is likely to have reached some form of resolution. The Commissioner concluded that there was no lawful basis for disclosure and that section 40(2) was engaged.
21. The Commissioner found that there was a breach of section 10 and 17 FOIA.

Grounds of appeal

22. The Grounds of Appeal are, in essence:
 - a. The Commissioner was wrong to conclude that no information was held within the scope of part 2 of the request.
 - b. The Commissioner was wrong to conclude that the information was personal data.
 - c. The Commissioner was wrong to conclude that the legitimate interest was overridden by the rights and freedoms of the data subject.
23. Mr Griffiths makes the following broad points:
 - a. It is unheard of for a state school to bring a claim of this magnitude against anyone. The defendants' source of income is benefits and they are reliant on food banks.
 - b. Money spent by the School on this litigation cannot be spent on enhancing the educational provision of pupils.
 - c. Interested parties such as tax-payers, parents and fund-raisers should know where the money is coming from.
 - d. It is in the public interest for the public to know if the claimant(s) is/are indemnified by the School and if the costs are covered by self-generated income.

- e. Mr Griffiths contests the assertion that there is a single pool of income. He states that there is a distinction between devolved funding and private income and that devolved funding can only be used for specified purposes.
 - f. This is not private personal information because the allegations are in court documents available to the public.
 - g. It is the disclosure of who is paying the costs that is the issue.
 - h. The School wrote to parents in September 2022 identifying rising costs of gas and electricity and stating that they do not have the income to match the rising costs. He submits that these are the opportunity costs of the legal fees.
 - i. The Commissioner refers to 'numerous incidents' but if they are a reference to allegations against the defendants to the claim, these are being contested in the court case.
24. The grounds of appeal ask the tribunal to consider or order a number of issues that are, as set out in the discussions and conclusions below, outside our remit. These include:
- a. The Commissioner has made unfounded allegations of vexatiousness.
 - b. During the Commissioner's investigation the Commissioner did not discuss matters with Mr Griffiths to obtain a balanced view.
 - c. The Commissioner should not have quoted an extract from a document he had not seen in full.
 - d. The Commissioner should not have 'publicly admonished' Mr Griffiths or publicly accused him of abusing his right of access in the decision notice.
 - e. Asking the tribunal to remove certain references or paragraphs from the decision notice
 - f. Asking the tribunal to order a written apology from the Commissioner.

The Commissioner's response

- 25. The Commissioner submits that he was entitled to accept the responses of School to the effect that there was a single pool of income.
- 26. The Commissioner states that he was correct to conclude that the withheld information was information 'relating to an identified or identifiable living individual'.
- 27. The Commissioner accepted that disclosure was necessary to serve a legitimate interest, but submitted that he was correct to decide that this did not outweigh the interests of the data subject.
- 28. The Commissioner submitted that the other matters raised by Mr Griffiths are outside the jurisdiction of the tribunal.

Additional submissions from Mr. Griffiths

29. In submissions dated 27 May 2025, Mr. Griffiths made a number of points in support of his appeal which we have taken into account. In those submissions he noted that the in January 2025 Wirral Council confirmed publicly that £210,576.79 was paid to the relevant solicitors from the School's account.
30. In relation to part 2 of the request he submitted that there was no reason why the Schools should not be directed to disclose in detail where the money to pay Brabners has come from. He stated that they must have already done this to meet Brabners' obligation under due diligence to comply with anti-money laundering (AML) regulations. Brabners must have satisfied themselves in respect of the origin of the money and the school's ability to pay over half a million pounds in costs if the Critchleys were successful in court. If Brabners did not do this, there are questions about their conduct which must be asked.

Legal Framework

Personal data

31. The relevant parts of section 40 of FOIA provide:
- (1) Any information to which a request for information relates is exempt information if it constitutes personal data of which the applicant is the data subject.
 - (2) Any information to which a request for information relates is also exempt information if –
 - (a) It constitutes personal data which does not fall within subsection (1), and
 - (b) either the first, second or the third condition below is satisfied.
 - (3A) The first condition is that the disclosure of the information to a member of the public otherwise than under this Act - would contravene any of the data protection principles, or...
32. Personal data is defined in section 3 of the Data Protection Act 2018 (DPA):
- (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.

33. The definition of 'personal data' consists of two limbs:

- i) Whether the data in question 'relates to' a living individual and
- ii) Whether the individual is identified or identifiable, directly or indirectly, from those data.

34. The tribunal is assisted in identifying 'personal data' by the cases of **Ittahadieh v Cheyne Gardens Ltd** [2017] EWCA Civ 121; **Durant v FSA** [2003] EWCA Civ 1746 and **Edem v Information Commissioner** [2014] EWCA Civ 92. Although these relate to the previous iteration of the DPA, we conclude the following principles are still of assistance.

35. In **Durant**, Auld LJ, giving the leading judgment said at [28]:

"Mere mention of the data subject in a document held by a data controller does not necessarily amount to his personal data. Whether it does so in any particular instance depends on where it falls in a continuum of relevance or proximity to the data subject as distinct, say, from transactions or matters in which he may have been involved to a greater or lesser degree. It seems to me that there are two notions that may be of assistance. The first is whether the information is biographical in a significant sense, that is, going beyond the recording of the putative data subject's involvement in a matter or an event that has no personal connotations, a life event in respect of which his privacy could not be said to be compromised. The second is one of focus. The information should have the putative data subject as its focus rather than some other person with whom he may have been involved or some transaction or event in which he may have figured or have had an interest, for example, as in this case, an investigation into some other person's or body's conduct that he may have instigated."

36. In **Edem** Moses LJ held that it was not necessary to apply the notions of biographical significance where the information was plainly concerned with or obviously about the individual, approving the following statement in the Information Commissioner's Guidance:

"It is important to remember that it is not always necessary to consider 'biographical significance' to determine whether data is personal data. In many cases data may be personal data simply because its content is such that it is 'obviously about' an individual. Alternatively, data may be personal data because it is clearly 'linked to' an individual because it is about his activities and is processed for the purpose of determining or

influencing the way in which that person is treated. You need to consider 'biographical significance' only where information is not 'obviously about' an individual or clearly 'linked to' him."

37. The High Court in **R (Kelway) v The Upper Tribunal (Administrative Appeals Chamber) & Northumbria Police** [2013] EWHC 2575 at paragraph 57 held, whilst acknowledging the Durant test, that a Court should also consider:

"(2) Does the data "relate" to an individual in the sense that it is "about" that individual because of its:

- (i) "Content" in referring to the identity, characteristics or behaviour of the individual?
- (ii) "Purpose" in being used to determine or influence the way in which the individual is treated or evaluated?
- (iii) "Result" in being likely to have an impact on the individual's rights and interests, taking into account all the circumstances surrounding the precise case (the WPO test)?
- (3) Are any of the 8 questions provided by the TGN [*Commissioner's Technical Guidance Note on personal data*] are applicable?

These questions are as follows:

- (i) Can a living individual be identified from the data or from the data and other information in the possession of, or likely to come into the possession of, the data controller?
- (ii) Does the data 'relate to' the identifiable living individual, whether in personal or family life, or business or profession?
- (iii) Is the data 'obviously about' a particular individual?
- (iv) Is the data 'linked to' an individual so that it provides particular information about that individual?
- (v) Is the data used, or is it to be used, to inform or influence actions or decisions affecting an identifiable individual?
- (vi) Does the data have any biographical significance in relation to the individual?
- (vii) Does the data focus or concentrate on the individual as its central theme rather than on some other person, or some object, transaction or event?
- (viii) Does the data impact or have potential impact on an individual, whether in a personal or family or business or professional capacity (the TGN test)?

Does the data "relate" to the individual including whether it includes an expression of opinion about the individual and/or an indication of the intention of the data controller or any other person in respect of that individual. (the DPA section 1(1) test)?"

38. The High Court in **Ashley v HMRC** held that:

161. ...the “relating to” requirement is satisfied where “the information, by reason of its content, purpose or effect, is linked to a particular person” (para 105 above). As the CJEU’s test in *Nowak* indicates, the “content”, “purpose” and “effect” of the information are disjunctive ways in which it may be linked to the individual in question. However, in many instances these features are likely to overlap and I accept that the position will be strengthened where a link exists in more than one of these senses. Consistent with the wording of the definition and the purpose of the legislative provisions, the concept of the information being “linked” to the data subject is to be construed in a broad way. However, this concept must have some limitations and I respectfully agree with the view expressed in *Durant* and in *Aven* that for these purposes there is a continuum of relevance to the data subject. Accordingly, an indirect or tenuous link at several removes is unlikely to suffice. On the other hand, information that would not, when viewed in isolation meet the definition of “personal data”, may do so where it is interlinked with or connected to material that is itself the “personal data” of the relevant individual. In *Nowak* the applicant’s script was plainly his personal data and the examiner’s comments appeared in the same document, were heavily interlinked with it and had a direct impact on the applicant. In cases of difficulty or ambiguity, it will be appropriate to consider whether affording rights of access to the individual will serve the legislative purposes, as the CJEU did in relation to the Directive in both *YS* and *Nowak* (paras 93 – 94 and 108 above).

162. I consider that the CJEU’s approach in *Nowak* accords with the relatively broad wording used in defining “personal data” in the Directive, the GDPR and the UK GDPR. I also note that recital (26) of the UK GDPR refers to the principles of data protection applying to “any information concerning an identified or identifiable natural person” (emphasis added); this choice of wording chimes with and reinforces the potentially wide nature of “relating to” in the Article 4(1) definition. The *Nowak* approach was endorsed by the CJEU in *FF* (para 118 above); and whilst *FF* is not binding on me, it is the only authority cited to the Court that was concerned with the GDPR. In addition, as I have already shown, the CJEU’s approach reflected the contents of the earlier Article 29 Opinion, which persuasively explained why it accorded with the wording of the definition of “personal data” (paras 85 - 87 above). The current ICO Guidance takes a similar approach (paras 119 – 121 above). I am also satisfied that this accords with a central objective of the UK GDPR (as well as that of the Directive), that the subject access request should enable the data subject to be aware of and able to verify the lawfulness of the

processing: see in particular recital (63) of the UK GDPR (para 72 above) and my discussion of the CJEU's reasoning in *Nowak* at paras 109 – 110 above.

163. ...
164. *Durant* is not binding upon me as it was decided in respect of a differently worded definition of “personal data” and in circumstances where the Court of Appeal considered that the wording which does not appear in the current definition of “personal data” indicated that the legislature intended a narrow approach to be taken to the concept (paras 76 and 80 – 81 above). As I have observed when undertaking my chronological review of the authorities, *Durant* was clearly a correct decision on its facts and the indicators or “notions” identified by Auld LJ as to when information would “relate to” a data subject stemmed from the circumstances of that case and were not advanced as or intended to be an exhaustive account of how the statutory test could be met (paras 82 – 83 and 88 above). In any event the second of Auld LJ’s notions – whether the data subject is the “focus” of the information – is not necessarily out of step with the later authorities, if it is applied in a manner that reflects the broad way in which the concept of “personal data” has subsequently been interpreted in those authorities, including that this focus may come not only from the content of the information, but from its purpose or effect.”
39. The data protection principles are set out Article 5(1) of the UKGDPR and ss 35-40 DPA. Article 5(1)(a) UKGDPR provides: that personal data shall be processed lawfully, fairly and in a transparent manner in relation to the data subject. Article 6(1) UKGDPR provides that processing shall be lawful only if and to the extent that at least one of the lawful bases for processing listed in the Article applies.
40. The only potentially relevant basis here is article 6(1)(f):
- “Processing is necessary for the purposes of the legitimate interests pursued by the controller or by a third party, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which requires protection of personal data, in particular where the data subject is a child.”
41. The case law on article 6(1)(f)’s predecessor established that it required three questions to be answered, which we consider are still appropriate if reworded as follows
- a. Is the data controller or a third party pursuing a legitimate interest or interests?

- b. Is the processing involved necessary for the purposes of those interests?
 - c. Are the above interests overridden by the interests or fundamental rights and freedoms of the data subject?
42. Lady Hale said the following in **South Lanarkshire Council v Scottish Information Commissioner** [2013] 1 WLR 2421 about article 6(f)'s slightly differently worded predecessor:

“27. ... It is well established in community law that, at least in the context of justification rather than derogation, ‘necessary’ means ‘reasonably’ rather than absolutely or strictly necessary The proposition advanced by Advocate General Poiares Maduro in *Huber* is uncontroversial: necessity is well established in community law as part of the proportionality test. A measure which interferes with a right protected by community law must be the least restrictive for the achievement of a legitimate aim. Indeed, in ordinary language we would understand that a measure would not be necessary if the legitimate aim could be achieved by something less. ...”

43. Section 40(3A) is an absolute exemption and therefore the separate public interest balancing test under FOIA does not apply.

Information not held

44. The question of whether information is held is determined on the balance of probabilities.

The role of the tribunal

45. The tribunal's remit is governed by section 58 FOIA. This requires the tribunal to consider whether the decision made by the Commissioner is in accordance with the law or, where the Commissioner's decision involved exercising discretion, whether he should have exercised it differently. The tribunal may receive evidence that was not before the Commissioner and may make different findings of fact from the Commissioner.

List of issues

46. The issues for the tribunal are:
- a. Does the School hold any information within part 2 of the request?
 - b. Is any of the withheld information the personal of data of the headteacher i.e. does it relate to an identifiable individual?
 - c. If so:
 - i. Is the requestor pursuing a legitimate interest or interests?

- ii. Is the processing involved necessary for the purposes of those interests?
- iii. Are the above interests overridden by the interests or fundamental rights and freedoms of the data subject?

Evidence

- 47. We read an open and a closed bundle.
- 48. The documents initially proposed to form part of the closed bundle were released to the appellant, with the information requested in part 1 of redacted. The appellant was given the opportunity to and did provide further submissions after that information was released and the tribunal took those submissions into account.

Discussion and conclusions

Does the School hold information within the scope of part 2 of the request?

- 49. Part 2 of the request states:
 - “[2] Please break down the above to provide the amounts and the percentages of the whole of each of the following sources of funding
 - 1. Delegated funding to the schools, ie tax-payer’s money;
 - 2. Donations and fund-raising;
 - 3. Contributions from the claimant(s);
 - 4. Specified other, for example, insurance.”
- 50. The School stated that it was unable to provide a breakdown of the percentage of funding that came from different sources, because it does not hold records that distinguish which source of funding is being used for a particular item of expenditure. The costs are simply deducted from the School’s overall budget.
- 51. On that basis we accept that the School does not hold any recorded information on the amounts and percentages of different sources of funding that were used to pay the costs. The costs have not been paid out of any particular ring-fenced pot of funds. They have simply been deducted from the School’s overall budget.
- 52. We have no reason to doubt that the solicitors have complied with their obligations under money laundering regulations, but that does not assist. The School does not hold records which distinguish which source of funding is being used for a particular item of expenditure. The costs are simply deducted

from the School's overall budget. The School would accordingly not have been in a position to provide the requested amounts and percentages to the solicitors either.

53. For those reasons we find that the School does not hold any recorded information within the scope of part 2 of the request.
54. We note that the School has however stated, taking account of the amount of self-generated income and the amount of legal costs, that it considers that the costs of the legal action are covered by self-generated income. It has confirmed to Mr Griffiths that any costs paid in regard of the legal action do not exceed the School's self-generated income.

Is the withheld information the personal data of the headteacher?

55. The requested information is the total amount of legal costs up to the date of the request in the legal action against Mr and Mrs Critchley by 'the Governors, Trustees and headteacher of Pensby High School'. The School has confirmed that the headteacher is the only claimant and therefore the withheld the information is the total amount of costs up to the date of the request in the legal action by the headteacher against Mr and Mrs Critchley.
56. We find that the individual in question is identifiable, due to their public facing role as headteacher at the School and due to the various media reports surrounding the court case.
57. Taking into account the guidance set out in the case law above, we find that the amount of costs in a legal action for harassment brought by an individual, is information relating to that individual. It is, in our view, information that is proximate and relevant to that individual. It goes beyond the recording of his involvement in a matter that has no personal connotations. These are proceedings focussed on whether or not there was harassment of him as an individual, and are of clear biographical significance to him. He is the focus of those proceedings. The question of how much those proceedings will cost is one remove from the proceedings themselves, but they are still a matter of significance in relation to the sole claimant in those proceedings. A claimant will, absent any other arrangement or an order against the other party, be liable to pay those costs.
58. For those reasons we conclude that the information is the personal data of the headteacher.

Is disclosure reasonably necessary for the purposes of a legitimate interest?

59. It is not our role to judge whether or not it is appropriate for the School to fund the litigation in question, and nothing in this judgment turns on whether that decision was wrong or right.
60. The legitimate interest in this case is transparency in relation to how public money is being spent, and in particular how much public money is being spent by a School with limited resources spending significant sums funding a legal action for harassment brought by the headteacher against two private individuals.
61. The precise amount of costs will not be included in the School's published budget. They will be placed into a category with other expenditure and therefore the amount spent on the legal proceedings will not be identifiable. For that reason, we find that disclosure is reasonably necessary to meet the legitimate interest.
62. Although the amount of costs was released by Wirral Council in January 2025 that postdates the relevant period for our purposes.

Are the above interests overridden by the interests or fundamental rights and freedoms of the data subject?

63. The School asserts that disclosure may cause significant harm and distress to the headteacher. The reasons given for this are that there is an ongoing course of conduct from the defendants and Mr. Griffiths. The School says this has included threats to the headteacher, which is the basis for the legal action which is the subject of the action for harassment. The headteacher has expressed significant concern about his personal data being disclosed.
64. The School drew the Commissioner's attention to the letter from Mr Griffiths at page A36 of the bundle which states:

"However, please make no mistake. If this claim against Keith and Stephanie Critchley is not withdrawn and their costs reimbursed, I will make it my life's work to expose the iniquities of the school's actions and hold the individual governors and trustees to account."
65. The School stated that considered this to be a clear example of Mr Griffiths' intentions to prevent the headteacher from exercising his fundamental rights and freedoms to pursue legal proceedings.
66. The School confirmed that the legal proceedings relate to harassment and distress caused to the headteacher in his professional capacity but asserted that they also relate to harassment and distress caused to the headteacher as a private individual. The School stated that the course of conduct which is the

subject of legal proceedings includes incidents where the headteacher and his family have been harassed at home.

67. For those reasons the School argued that disclosure of the information is likely to result in unwarranted damage or distress to the headteacher.
68. Our conclusions are as follows. The figure of the amount of costs incurred in those proceedings does not reveal any information about the facts or the details of the harassment that the headteacher may have suffered which forms the basis of the action. Other than the amount the headteacher might be liable to pay, the figure does not provide any other personal information about the headteacher as an individual or his family, or the allegations that he has made. The costs figure reveals minimal information about the headteacher as an individual. The proceedings themselves were already in the public domain at the relevant date.
69. The legal proceedings relate at least in part to harassment of the headteacher in his professional capacity. The role of a headteacher is a senior, outward-facing public role. The costs of the legal proceedings are being paid, at least in part, by the School, a public authority, out of its general budget. The headteacher will be aware that the School has to be accountable to the public and to be transparent about its expenditure.
70. In those circumstances we do not accept that the headteacher would have had a reasonable expectation that this figure would be kept private.
71. We accept that the publication of this figure might lead to a further article in the newspapers, which might lead to some distress to the headteacher, although that is not the basis on which the School or the headteacher has raised concerns.
72. We accept that the headteacher has objected to disclosure and we take that into account. However we are not persuaded by the School's arguments that disclosure carries a risk of causing damage and distress to the headteacher. We do not accept that the letter from Mr Griffiths referred to above supports and argument that disclosure of the requested figure might lead to any interference with the headteacher's freedom to pursue legal proceedings.
73. It is clear that the alleged course of conduct underlying the legal proceedings has caused the headteacher distress, but we are not persuaded by anything in either bundle that the release of the figure of the cost of the legal proceedings, can be causatively linked to a risk of further conduct of that nature. It has not been explained to us why releasing this figure might cause further harassment.
74. All schools have limited resources and pressures on their budgets. The fact that this School is no exception is illustrated by the letter in the bundle at page A31-

A32. That letter is dated 20 September 2022 and warns parents that the School cannot meet the rapid rises in gas and electric costs from the current school budget and has to find efficiencies. The letter continues, 'The reality is that in school, some areas matter more to students than others and we need to protect them. Breakfast club, quality and size of portions at lunch, teaching and learning need to be protected from the vagaries of funding as much as is possible, but that leaves very little left to cut.'

75. The letter concludes by saying that they will delay putting the heating on for as long as possible and then will keep it to 19 degrees and states:

"I would ask that you take the time to reflect on the difficulty in maintaining the quality of education and outcomes for your children in this school or any other school given the pressure on school budgets. In effect schools find their budgets per students at around the same level as 2010, but schools are asked to do much more than they previously did and so something has to give. In our case it is the heating in the first instance."

76. That letter illustrates the importance of scrutiny and transparency where significant sums of money are spent from the school budget, on matters such as the one in issue in this appeal. Whilst there is some transparency, because the figure will be included in the budget as part of a more general category, we take the view that it is important for there to be transparency for a significant item of expenditure which is not part of the usual annual expenditure for a school. Schools have to make difficult decisions about what they spend their money on, and it is important that those decisions can be scrutinised and interrogated by an informed public.

77. For those reasons, we conclude that the interests or fundamental rights and freedoms of the data subject are outweighed in this case by the legitimate interests in disclosure. The appeal is allowed.

78. The other matters raised by Mr. Griffiths are outside our jurisdiction. We undertake a full merits review. We do not have jurisdiction to review the Commissioner's investigation nor to rule on what should, or should not, have been included by the Commissioner's in his reasoning in his decision notice. We have no power to order the Commissioner to provide an apology, nor to remove any parts of the Commissioner's decision notice.

79. We note for the benefit of the School that the requested information is the total amount of costs up to 9 February 2024. That is the figure that should be provided to Mr Griffiths.

Signed

Sophie Buckley

Date:

13 June 2025