

Our ref: FOI/IR 145-16/17 - Taylor (Internal Review)

Your ref:

Date: 21 November 2016

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Dear Mr Taylor

### **Freedom of Information Act Request: Ref FOI 145-16/17 - Internal Review: Outcome**

I am writing to inform you of the outcome of the Internal Review that has been carried out in to the CCG's handling of your recent Freedom of Information request (FOI 145-16/17 refers).

To ensure impartiality the Internal Review was overseen by the Jessica Bawden, Director of Corporate Affairs, who has had no previous involvement in this matter.

### **Scope of the Internal Review Process**

A process should be used where an applicant wishes a review to be conducted about the way the CCG has responded to a request for information made under the Freedom of Information Act (FOIA). All applicants are informed of their right to request a review, under this process, when they are sent a response to a request for information.

### **Initial Freedom of Information Request Received on 15 September 2016**

*Would you please release the record of the decision(s) to appoint consultants McKinsey taken in August/September 2016. I expect there may be a formal record of decision(s); if there isn't then I am seeking the relevant elements of report(s) and minutes relating to the decision(s). If the arrangements are not finalised as of the date of this request I am seeking the applicable material which is available.*

### **Summary of C&P CCG's Response to Freedom of Information Request (FOI45-16/17)**

A final response letter was sent to you (via e-mail) on 12 October 2016. The response provided a link to the Chief Officer's report presented to the CCG Governing Body held on 13 September 2016, which confirmed the decision taken by the Board at its meeting held in Private on 2 September 2016, to appoint McKinsey and Company to support the CCG with its Financial Recovery, Improvement and Sustainability work.

A link to the CCG's procurement Register which provided details of the procurement decision was also provided.

You e-mailed the CCG on 24 October 2016 to request an internal review of the CCG's handling of your request - as follows:

*I don't think the material released amounts to the record of the decision. The response states: "The decision to appoint McKinsey's was reported to the CCG Governing Body in public on 13 September 2016 as part of the Chief Officer's report". That report in fact prompted this request. The register of decisions linked from the response states the decision in question was taken at a CCG Governing*

*Body (in private) on 02.09.16, that appears to me to be a mere pointer to the fact the decision was taken.*

*I made clear in my request that, in the absence of a formal record of the decision I was seeking: "the relevant elements of report(s) and minutes relating to the decision(s)". The material I expected to be released included, for example, the recommendation made to the board, the basis for the recommendation, alternative options, and details of the decision taken. What I have been provided with is a mere index, an entry on a list, rather than the substantive information I was actually seeking.*

*I am concerned the way my request has been dealt with appears to have been unhelpful and evasive and would like the review to consider if the CCG has fulfilled its requirements to advise and assist under section 16 of the Freedom of Information Act.*

## **Review**

As part of this review I have looked at what other information held by the CCG could be considered to be relevant to the remit of your original request.

I have identified that the formal (\*redacted - see below) minutes of the Private Governing Body meeting held on 2 September 2016, when the appointment of McKinsey and Co. was considered, were not included in the final response sent to you. These minutes had previously been disclosed to you in response to an earlier Freedom of Information (FOI) request (FOI Ref144-6/17 refers).

The decision taken by the Governing Body in Private at its meeting on 2<sup>nd</sup> September 2016 was formally reported in public to the Governing Body on 13 September 2016. The response to your request included a link to the report published on the CCGs website (Chief Officer's Report) which provided a summary of this decision. I do, however, find that it would have been appropriate to have also included a copy of the 2<sup>nd</sup> September minutes in our response, given that these constitute the formal record of the decision taken. In addition I have noted that a short cover paper entitled - *Provision of Financial Recovery, Improvement and Sustainability Report* was presented to the meeting in support of the Governing Body's deliberation of this matter. I am of the view that this document should also have been disclosed as part of the CCG's response, although not the bid document itself (referred to as Appendix 1) which is commercially sensitive.

\*As part of this review I have also re-visited the version of the minutes that were redacted when disclosed as part of a previous FOI request (ref FOI 144). I consider that the exemption originally applied under the FOIA (Section 43(2) - Commercially sensitive) does still hold, but that some of the sections originally redacted should now be disclosed. This has been done and the revised document accompanies this letter.

While I am of the opinion the CCG could have provided a more comprehensive response to your request on this occasion, I do not consider that there was any intention to be either *'unhelpful or evasive'* in dealing with the request. It was simply believed that the original response provided, which detailed the decision to appoint McKinsey and Company as reported to the Governing Body in Public on 13 September 2016, sufficiently met the requirements of the request.

The CCG recognises that it has a duty to provide advice and assistance to individuals making requests for information under the Act. In line with the Information Commissioners Guidance this should be done in the following circumstance:

- *to clarify unclear requests;*
- *to help to provide the information requested in an acceptable format;*
- *to narrow responses which exceed the cost limit (section 12);*
- *when they have refused to provide the information because it is accessible by other means (section 21) or there is an intention to publish it in the future (section 22); and*
- *when their request is transferred to another public authority because the information is held by it, and not by the public authority it was addressed to.*

As previously indicated the CCG was of the opinion that it was able to provide an appropriate response to your request and did not consider it to be unclear or in need of clarification. The other

reasons listed above are not relevant in this instance. The Act states that if a public authority can deal with a request without the need to provide additional advice and assistance then no Section 16 duty arises. I deem this to be the case here.

## **Conclusion**

As the responsible Director assigned to oversee this Internal Review, I have given due consideration to the issues raised and have concluded that additional information should have been released to you when the CCG sent its original response. This comprises redacted minutes of the 2 September 2016 Governing Body held in Private, together with the cover paper presented to this meeting. Both of these documents accompany this letter.

I do not, however, consider that the CCG was required to provide additional advice and assistance in relation to this particular request under Section 16 of the Freedom of Information Act for the reasons set out above.

I hope you are satisfied with the outcome of this review, however If not you can of course refer the matter to the Information Commissioner for consideration. You can contact them in writing at the following address: **Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF.**

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Bawden', enclosed within a thin blue rectangular border.

**Jessica Bawden**  
**Director of Corporate Affairs**