



**COTSWOLD**  
DISTRICT COUNCIL

Helen Cross  
(via email)

26 August 2022

Tel: (01594) 810000  
Email: [foi@cotswold.gov.uk](mailto:foi@cotswold.gov.uk)

Dear Helen Cross

### **Freedom of Information Request FOI/001749 – Internal Review**

Further to your email dated 6 August 2022 I have been asked to conduct an internal review of your Freedom of Information Request.

### **The Request**

In your initial request for information you stated:

*Section 13.1.4 of the Council's Climate Emergency Strategy 2020-2030 states that:*

*"Action is already being taken to develop and roll-out a programme of information and training which will bring all staff up to a level of understanding of the science of climate change, the risks it brings, the means of reducing emissions, and the role of the council."*

*Please provide me a copy of any training materials that are provided to staff in connection with the above objective.*

### **The Councils Response**

The Council responded to your request providing the slides that had been customised to cover the Publica council areas. However, it refused to provide the remainder of the materials on the basis that they are the copyright of either APSE energy who ran the external training, or of the CLP organisation that licences trainers for our internal provision. To support its refusal the Council provided you with a copy of the legal terms and conditions which applied to the materials.

### **Freedom of Information Act**

Section 43(2) of the FOIA states that: Information is exempt information if its disclosure under this Act would, or would be likely to, prejudice the commercial interests of any person (including the public authority holding it).

As previously advised the information you are requesting belongs to a third party, namely APSE Energy and the Carbon Literacy Trust. The materials are licensed for the sole purpose of certified Carbon Literacy training and are only free of charge for qualifying organisations. As a Local Authority, Cotswold District Council meet the criteria of a qualifying organisation, however this qualification does not apply to members of the public.

Carbon Literacy Trust and APSE are commercial enterprises, whose revenue is in part derived from the sale of training materials. Any disclosure under the FOIA would relinquish any ability to restrict further dissemination of that information and therefore if the Council were to disclose the information neither it, nor the Trust nor APSE would be able to prevent anyone who wished to do so from copying the Trusts or APSE's intellectual property and using it for themselves. This would prevent the Trust and APSE from continuing to make money from the intellectual property they have created.

Taking the above into consideration the Council is satisfied that section 43 is engaged.

Section 43(2) of the FOIA is a qualified exemption, which means that, even when the exemption is engaged, the Council is still required to disclose the information – unless it can demonstrate that the public interest in maintaining the exemption outweighs the public interest in disclosure.

Upon reviewing the request it would appear that the public interest is whether or not the Council are training its staff on matters around climate change. Therefore providing the training material would, in the Council's opinion add very little to that context, particularly in light of the public reporting which is taking place. Therefore the public interest is in favour of maintaining the exemption.

### **Environmental Information Regulations**

When requesting your review you also requested that the Council considers your request under the Environmental Information Regulations (EIR).

The EIR provide public access to environmental information held by public authorities. However, like the FOIA there are some exceptions which enable the Council to withhold the information.

As a general rule, copyright, database rights and intellectual property rights do not prevent the Council from disclosing information under the regulations. However, the regulations do include an exception to disclosure where releasing information would adversely affect intellectual property rights (regulation 12(5)(c)).

As detailed above the material you are requesting belongs to a third party, are licensed for the sole purpose of certified Carbon Literacy training and are only free of charge for qualifying organisations. Disclosure of the material would relinquish any ability to restrict further dissemination of that information and therefore if the

Council were to disclose the information neither it, nor the Trust nor APSE would be able to prevent anyone who wished to do so from copying the Trusts or APSE's intellectual property and using it for themselves. Therefore we are of the opinion that releasing the information would adversely affect intellectual property rights and as such the exception in regulation 12(5)(c) applies.

Like section 43 FOIA the exception is subject to the public interest test. The same principles have been applied here as set out in our response under FOIA and therefore the public interest is in favour of maintaining the exemption.

Before responding to this request for a review we contacted the Trust to request permission to release the information. Our request was refused. However, they have advised that they are happy to speak to you. If you wish to make contact with them you can do so by emailing: [william.gibb@carbonliteracy.com](mailto:william.gibb@carbonliteracy.com)

This letter concludes the Council's review. If you remain dissatisfied with our response you can refer your request to the Information Commissioner's Office: <https://ico.org.uk/>

Yours sincerely



Claire Hughes  
Business Manager for Corporate Responsibility  
Cotswold District Council