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11<sup>th</sup> February 2019

Our Reference: LAG/JC/SG/FOI18484

Mr A Leader  
BY EMAIL

Dear Mr Leader

**Freedom of Information Request  
Colne Valley Footpath 144 Reference 18484 - Review**

I have conducted a review of the Council's response to your request for information concerning Colne Valley Footpath 144. I was not involved in the preparation of the Council's initial response to your request for information. In conducting this review I have had regard to the relevant guidance issued by the Information Commissioner's office.

**Background**

You made a request for information on the 23<sup>rd</sup> October 2018 in the following terms:-

*Please provide the information you hold regarding the dumping of fly-tipping on this public footpath which was reported in June 2018 and the Council's subsequent decision to permit the burying of this waste beneath Footpath 144. This should include records of site visits, emails and telephone calls internally and with the owner of the waste. Also documentation which demonstrates the owner of the waste has transported and dealt with the waste in line with the statutory duty of care required under current legislation. In addition any documentation which demonstrates the Council's decision making process in this case.*

The Council responded to your request on the 21<sup>st</sup> November 2018 and provided you with a file of documents from which certain information had been redacted. In relation to the redacted information the Council issued a formal Refusal Notice under Regulation 14 of the Environmental Information Regulations.

By email of the 21<sup>st</sup> November 2018 you requested that the Council's response be reviewed in the following terms:-

*Dear Kirklees Borough Council*

*Please pass this on to the person who conducts Freedom of Information Reviews.*

*I am writing to request an internal review of Kirklees Borough Council's handling of my FOI request "Colne Valley Footpath 144 burying of fly tipping waste beneath footpath".*

*This is a matter of public interest. Kirklees Council would appear to be acting outside their statutory duties under the Highways Act 1980 and the Environmental Protection Act 1990 in permitting the burying of controlled waste under a public footpath.*

*There is no need to reveal any personal information. The Council should have documentation of correspondence with the owner of the waste which demonstrates that Kirklees Council have acted properly and in accordance with its statutory duties. The documentation should show where the waste has come from, who transported it and some kind of planning application and environmental assessment related to the burying of the waste under a public footpath on Green Belt land. Any personal information can be removed as it is not relevant.*

## **Review**

I have reviewed the Council's response to your request for information. In the course of doing so I have considered the disclosed information. I am satisfied that in relation to the information redacted from the papers disclosed to you the Council was correct to conclude that this constitutes personal data within the meaning of Regulation 13 of the Environmental Information Regulations and the Council correctly applied the law. The decision notice issued to you satisfactorily summarises the Council's reasons for withholding the redacted information.

I am satisfied that the Council has dealt with your request for information in accordance with the Environmental Information Regulations and that the exemptions were properly applied. Although the points you make regarding the public interest are have some validity in themselves there is no additional layer of public interest test to be applied in relation to information exempt under Regulation 13 .Consequently I cannot uphold your review.

If you are not content with the outcome of this review you have the right under the regulations to apply to the Information Commissioner for a decision as to whether your request for information has been dealt with in accordance with the requirements of the Act. The Information Commissioner's website is at: [www.ico.org.uk](http://www.ico.org.uk) and gives more information about the relevant duties of the Commissioner. The Information Commissioner can be contacted at: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF.

Yours sincerely

**John Chapman**  
**Head of Service**  
**for Service Director – Legal, Governance and Commissioning**

