



Department for Digital, Culture, Media & Sport

Freedom of Information Team
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24 June 2019

Ruth Kersley
request-552501-dbf8ac60@whatdotheyknow.com

Our Ref: IR2019/04514

Dear Ms Kersley,

Thank you for your email of 9 May where you ask for an internal review to be carried out into the department's response to your Freedom of Information (FOI) request dated 4 March. In your original request you asked for the following:

Please provide me with copies of all written and verbal communications between Barnet Council and DCMS from 1st August 2018 and 1st February 2019.

Please limit this request to officials in DCMS libraries team only. Also regarding verbal communication can you please provide only notes or any other written record of any phone conversations.

The department responded to you on 8 April confirming that we held information within scope, releasing some information, whilst withholding some information under the exemption at section 35(1)(a) (Formulation of government policy, etc) of the FOI Act 2000 (the Act). Personal information was also withheld under section 40(2) (Personal Information) of the Act.

You have now requested an internal review, as follows:

I am writing to request an internal review of Department for Digital, Culture, Media and Sport's handling of my FOI request 'Communication regarding the Library service between London Borough Barnet Council and DCMS'.

I am writing to ask you to review your decision made on the 8th April 2019 to refuse information requested on an FOI on the 4th March 2019.

Since I submitted my requests, the complaint by Save Barnet Libraries, requesting an inquiry under s.10 Public Libraries and Museums Act 1964 ("the Act") has been refused by the Minister for Culture. Therefore, many of the stated reasons for the refusal of disclosure fall away

You also raised some further points which will not be dealt with as part of the internal review into our response. These are new points, which we have noted, but they appear to be more appropriate to address to Barnet Council.

In order to ensure cases are looked at afresh, internal reviews of FOI requests are carried out in our department by officials unconnected to the handling of the original request. I was therefore asked to conduct the internal review. Please accept my apologies for the delay in responding.



Having reviewed the request, I consider that, at the time of the request, the decision taken to withhold the information was correct, and that the exemptions were applied correctly.

However, following the passage of time, and with the Secretary of State having confirmed his decision not to direct a local inquiry under the Public Libraries and Museums Act 1964 into the changes in the library provision in Barnet, I now consider that the vast majority of the requested information that was withheld, can be released. I should explain that the department still considers one letter, a complaint from a library user about another user of the Hendon library, which was referenced in the email chain we previously released, to be exempt from release in full under section 40(2)(Personal information) of the Act. I should also explain that all personal information, i.e. names and job titles of junior officials and their direct contact details (including email addresses and telephone numbers) have been withheld under section 40(2) (Personal information). This is an absolute exemption and does not require a public interest test.

Furthermore, the department also considers some information should be withheld under section 42 (Legal professional privilege) of the Act. This is a qualified exemption and we have considered the public interest in withholding the information or in disclosing it. The arguments for and against disclosure are detailed below.

There is a public interest in public authorities being accountable for the quality of their decision making and ensuring that decisions have been made on a sound evidential basis, and with good quality legal advice, is part of that accountability.

Whilst we accept the public interest in accountability when it comes to decisions made by public authorities, we have also considered that there is a strong public interest in recognising and upholding the importance of the principle behind legal professional privilege: safeguarding openness in all communications between client and lawyer to ensure access to full and frank legal advice, which in turn is fundamental to the provision of good government. The courts have recognised that the inherent public interest in maintaining legal professional privilege is high.

This legal advice to the government must be given with a full appreciation of the facts, and allowing exploration between legal advisers and policy officials as to the possible arguments both for and against a particular view, weighing up their relative merits. Without such full, comprehensive and dynamic advice, the quality of the government's decision making would be much reduced, because decision makers would not be fully informed of the legal context of the decision.

We therefore consider that the public interest in disclosure does not outweigh the strong public interest in withholding information which is the subject of legal professional privilege. I should explain that this information has been clearly redacted in the released document.

Yours sincerely,

Freedom of Information Team
Department for Digital, Culture, Media and Sport

Complaints and comments

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF. You can also email them at: casework@ico.org.uk.