



Mr James Muldoon  
via e-mail  
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**17 May 2011**

Dear Mr Muldoon

**Re: Freedom of Information Act request – internal review ref no. 4829(0)**

We have considered your appeal submitted on 3 March 2011 against the council's response to your original Freedom of Information request number 4829 received on 15 February 2010. Your appeal has been dealt with in accordance with our appeal procedure and the matter fully considered.

The information which you requested in your original e-mail was as follows:

(1) Please provide the number of FOI Requests received each month by the council for calendar year 2009 and January 2010, and the overall total.

(2) Please confirm whether it is council policy to acknowledge all FOI Requests, and how quickly.

If it is, provide the % which met that target in each month and overall.

If not, explain how the council considers this complies with ICO guidance and the council's duties under the Act, in particular S16 to be helpful.

(3) For each month and the whole period, include how many received the council's response  
(a) within 15wd,  
(b) in 16-20 wd,  
(c) after 20wd,  
and (d) any still awaiting response.

(4) Include also how many were met  
(a) in full,  
(b) partly,  
(c) rejected, with a note of the numbers for each reason for rejection – not held, too costly, fees notices etc.

(5) Include how many were referred to Internal Review, how long these took as per (3) above, and the outcome

(6) Lastly for each month and total, include the number of requests

that had ICO involvement, distinguishing between numbers where the ICO asked the council to respond due to delay by the council, or where the ICO made a ruling after the council process was exhausted.

Itemise each of these presumably very few cases individually with full dates and outcome.

Please provide this electronically, preferably in an XLS spreadsheet.

The first part of our internal review focused on how the Council handled your request for information from a procedural point of view and whether this complied with the requirements set out in the Freedom of Information Act 2000 ('the Act') and the Code of Practice issued by the Secretary of State under section 45 of the Act.

Section 10 of the Act says a public authority must inform the applicant in writing whether it holds the information requested and if so, communicate that information to the applicant, **promptly, but no later than 20 working days after receipt**, of the request. Where a public authority notifies an applicant that their request has been refused it must again provide such notification no later than 20 working days after receipt of the request.

Section 16 of the Act places a duty on public authorities **to provide advice and assistance, so far as it would be reasonable to expect the authority to do so, to persons who propose to make, or have made, requests for information to it**. Examples of what is reasonable may include keeping an applicant advised of progress to his or her request. This would extend to informing him or her if it was going to take longer than 20 working days to respond to the same as well as clarifying unclear requests.

I set out the chronology of this matter below:

15/02/10 – Freedom of Information request received.

16/02/10 - 20 working days period starts to run from the day after receipt of the request.  
(Day 1)

18/02/10 – Request acknowledged (by e-mail).

15/03/10 – Extension of time of 5 additional working days requested.

08/10/10 – Response sent.

By my calculation it took a total of 165 working days in which to respond which exceeds the timescale set out in the Act by 145 days.

The Council's response had in fact been collated by the close of business on 15 March 2010 however due to an oversight the response was not sent to you at that time. This was an unfortunate mistake and once the council's Corporate Freedom of Information Officer discovered the omission on 8 October 2010 the response was immediately sent to you. However I acknowledge this does not excuse the fact you did not receive a reply within the time limit stipulated by section 10 and I apologise for the delay.

Pursuant to its duty to provide advice and assistance under section 16, the Council wrote to you on 15 March 2010 and informed you that it was going to take longer than 20 working days to respond to your request. The Council also provided an estimate of when it expected to be in a position to respond in full. This step accords with the Council's duty under section 16 of the Act. The council did not send any further letters advising that the response had been delayed because, as explained above, this fact only came to light on 8 October 2010 at which point the final response was despatched.

I can confirm that the Council aims to answer all requests made under the Act promptly and in any case no later than 20 working days after receiving the same. I accept this did not happen in the current instance which was due to the reason outlined above. I can only apologise for this omission in our usual procedures and can assure you that appropriate steps are being taken to avoid this occurring in the future. The Council did however initially keep you informed of the progress of your request and the fact that there would be a delay in responding.

The council accepts that again, due to an oversight, it did not respond to your requests for an internal review initially submitted on 19 October 2010 and then again on 3 March 2011. I would apologise for the council's failure to do so. The council has updated its procedures to ensure such correspondence is actioned immediately.

We then went on to review the council's original decision to refuse to provide the information on the basis that it is exempt pursuant to section 12 of the Act.

Section 12 of the Freedom of Information Act 2000 provides an exemption from a public authority's obligation to comply with a request for information where the cost of compliance is estimated to exceed the appropriate limit set out in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 ('the Fees Regulations').

For local government the 'appropriate limit' is set at £450 and calculated on a standard rate of £25 per hour (equating to 18 hours work) based on estimating how long it takes one person in:

- (a) determining whether the authority holds the information,
- (b) locating the information, or a document which may contain the information,
- (c) retrieving the information, or a document which may contain the information, and
- (d) extracting the information from a document containing it.

In our original response we advised you that due to a serious malfunction of our reporting database we had no access to the data stored centrally and that to provide the information requested would necessitate an individual manual search of our records which for the information listed in questions 2-6 of your request would exceed the 'appropriate limit'. In your letter of 19 October 2010 you expressed your belief that whilst the above may have been the position in March 2010 "...presumably the database access issue has been resolved by now".

I can confirm that rather than this being an access issue the council suffered a catastrophic loss of data and it has not been possible to retrieve the same via the data base. In the circumstances the situation described in March 2010 remains unchanged to date.

Through manual checks, the council has however been able to ascertain that between April 2009 and December 2009 a total of 605 FOI requests were received. During January 2010 a further 94 FOI requests were submitted.

To provide the remaining information you have requested in question 1 of your original request as well as the information asked for in questions 2-6 of the same would require manual individual searches of our records and would exceed the 'appropriate limit' prescribed in the Fees Regulations. In the circumstances we uphold the original decision that it would take more than 18 hours to locate, retrieve and extract the remaining information. As we have estimated that the cost of complying with your request would exceed the 'appropriate limit' the council is not, pursuant to section 12 of the Act obliged to answer the same.

If you are dissatisfied with this decision you may request the Information Commissioner to investigate, and you should contact him within 2 months of the date of this letter. You may contact the Commissioner at the:

Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF  
Telephone: 01625 545 700  
Internet: [www.ico.gov.uk](http://www.ico.gov.uk)

Once again please accept my apologies for the long delay which has occurred in this matter.

Yours sincerely,

Ian Mark  
Senior Lawyer  
Governance Team