



Ministry of Housing,
Communities &
Local Government

**Ministry of Housing, Communities & Local
Government**

Fry Building
2 Marsham Street
London
SW1P 4DF

T 030 3444 0000

www.gov.uk/mhclg

Mr James Evans
Via email

Date: **21 August 2018**

Dear Mr Evans

Internal review under the Freedom of Information Act 2000 - 3487923

Thank you for your request for a review which we received on 24 July 2018. I am sorry that you are dissatisfied with our attempts to handle your request under the Freedom of Information Act 2000. I am the review officer appointed to undertake the internal review and I am writing to provide a response. I had no involvement in the original response to your request.

Background

On 19 September 2017 you submitted a request for information concerning the review of the Community Right to Challenge measures contained in the Localism Act 2012. The full request is in an annex at the end of this review.

On 20 February 2018 the Department responded to your request by confirming that all of the information was held. Some of this was provided to you and some of it was withheld under section 40 and section 41 of the FOIA.

On 03 April 2018 you asked for clarification but have not yet received this. Your questions were:

“Q5: You note 227 groups accessed financial assistance in your response. In the attached document '140109 Review of Right to challenge Redacted' you state supporting 245 organisations to develop EOLs, with around 25 being submitted. £1.9m is stated as supporting feasibility work / service delivery - could you confirm how the figure of £1.9m relates to the numbers of organisations listed in your response?

Q7: Could you confirm which element / document or tab within the attached information contains the Community Right to Challenge survey results you refer to?

Q8: Which organisation completed the final draft of the survey and the date it was sent?

Q11: Is the review referred to here the same as noted in the attached document '140109 Review of Right to challenge Redacted' where you state '...Given that the provisions only came in in June 2012, the scheme is relatively new. We think therefore it is too early to carry out a formal review of its impact in 2014, instead we plan to begin this process in the Summer of 2015 (around 3 years from implementation of the Right to Bid regulations'? “

Request for review

On 24 July 2018 you requested an internal review of the handling of your request, raising the following points:

“It has taken a long time to access the information, and I have had to rewrite a previous request (reference: 3284979) in order to make any progress. I have asked a series of clarifying questions following the response in February 2018, but as yet still have no response. I was told this had been received and was being actioned in April, but have not heard anything. I was then told they were passed to a policy official in May, but have not heard anything since then. Given I submitted the original request in July 2017, I think I have been patient, and that this process has taken too long”.

Appeal Officer's Response

I have looked at your comments regarding the amount of time taken to process both the original request and the follow up questions.

As your request was received by us on 19 September 2017 the original legislative deadline was 17 October 2018. The Case Officer extended the deadline 5 times in order to consider the public interest and the response was issued on 20 February 2018.

The FOIA does not define what might constitute a 'reasonable' extension of time. Guidance from the Information Commissioner's Office (ICO) says that an authority should normally take no more than an additional 20 working days to consider the public interest, meaning that the total time spent dealing with the request should not exceed 40 working days. The ICO guidance does not say that extending a request beyond 40 days is not possible; although it does say that this should be exceptional rather than the norm.

The time was extended due to considerations under section 36. As section 36 is a qualified exemption this is permissible under section 10(3) with the condition that the authority informs the requestor that section 36 is engaged 17(1).

The Case Officer who managed your original request did contact you in accordance with the FOIA on each occasion to inform you that the time period was being extended due to considerations under section 36 of the FOIA (Prejudice to the effective conduct of public affairs).

Regarding the follow up questions which you asked in April 2018, the answers to these are set out below. I would like to apologise for the delay in providing these.

Follow up questions

As mentioned in our previous response, the department contracted a consortium of partners to deliver the Community Rights Support programme and as such some of the information you requested was held by the relevant contractor. The information provided to you relates to the informal surveys, enquiries and follow up that were carried out by both the department and the contractor between 2013-2015.

Unfortunately we do not hold detailed records of all the information which you have requested.

Q5: You note 227 groups accessed financial assistance in your response. In the attached document '140109 Review of Right to challenge Redacted' you state supporting 245 organisations to develop EOIs, with around 25 being submitted. £1.9m is stated as supporting feasibility work / service delivery - could you confirm

how the figure of £1.9m relates to the numbers of organisations listed in your response? “

Answer: The figure 245 relates to organisations supported to develop EOIs and covers both those receiving financial and non-financial support. The figure listed in the response covers the cumulative number receiving support from 2012 to March 2015. Unfortunately we do not hold records of how these figures are broken down in relation to the awarded figure mentioned above. This information would have been held by the contractors delivering the Community Right Support programme.

Q7: Could you confirm which element / document or tab within the attached information contains the Community Right to Challenge survey results you refer to?

Answer: As mentioned in our previous response, informal surveys of the Community Right to Challenge support programme users were undertaken in 2013 and 2014. Additional surveys were carried out informally between 2015 and 2016. The document titled 'Updated list of EOIs with analysis' forms part of the survey results undertaken in 2014. The document 'Review of the right to Challenge' is the final summary analysis and outcomes of the 2013 informal survey.

Q8: Which organisation completed the final draft of the survey and the date it was sent?

Answer: Locality would have completed the final draft of the survey. Unfortunately, we do not hold a record of the exact date the survey was sent out.

Q11: Is the review referred to here the same one noted in the attached document '140109 Review of Right to challenge Redacted' where you state '...Given that the provisions only came in in June 2012, the scheme is relatively new. We think therefore it is too early to carry out a formal review of its impact in 2014, instead we plan to begin this process in the Summer of 2015 (around 3 years from implementation of the Right to Bid regulations.'?

Answer: No, the document '140109 Review of the Right to Challenge Redacted' relates to the informal survey undertaken over 2013.

Conclusion

Having carefully reviewed this case I would like to take this opportunity to apologise for the delays you have encountered both in receiving the response to your original request and for the clarification you requested which has been provided here. I hope that you are content that the Department has completed a thorough and considered review of your request and the Department's response.

If you are unhappy with the outcome of this internal review, you can ask the independent Information Commissioner to investigate. The Information Commissioner can be contacted at email address xxxxxxx@xxx.xxx.xx or use their online form at ico.org.uk/concerns or call them on 0303 123 1113.

Yours sincerely

Knowledge and Information Access Team
Ministry of Housing, Communities and Local Government

Annex

Original Request

1. Could you tell me if following the Local Government Select Committee Inquiry into the Community Rights:

Q1. Do DCLG hold or not hold information on any requests made by DCLG or received by DCLG from local authorities or relevant bodies on the right to challenge as outlined in the Localism Act?

Q2. Has the DCLG made any requests, but does not hold any responses?

Q3. Have any summaries (partial or complete) of the numbers of challenges been attempted whether created by DCLG or a third party, and could they be shared?

Q4. If the information is not held, can you confirm that it was held at the time of response to the select committee or afterwards, and the reason it has since become unavailable?

2. In the Government response to the Communities and Local Government Select Committee Inquiry into the Community Rights (Recommendation 12) it is noted: 'We have recently contacted all groups that have received specialist support through both the Community Right to Challenge and Community Ownership and Management of Assets programmes asking them about the impact of the support they received on their organisation and what they have achieved since. This includes questions as to whether they have submitted an expression of interest under the Community Right to Challenge, whether they have taken part in a procurement exercise and whether they have won a contract.'

Q5. How many groups received specialist support referred to in the response?

Q6. During what date range were the groups contacted?

Q7. Is the basis for the information forming the response to the select committee able to be shared? This would include number of responses received, the groups contacted, impact of support and achievements since and action taken by DCLG.

Q8. Is an example of the correspondence able to be shared, including the list of questions sent?

Q9. If the information is not held, can you confirm that it was held at the time of response to the select committee or afterwards, and the reason it has since become unavailable?

3. In the Government response to the Communities and Local Government Select Committee Inquiry into the Community Rights (Recommendation 13 para 31) it is noted: 'We will work with local commissioners to examine the impact of the Community Right to Challenge and to consider other means to achieve its broad policy aims'.

Q10. Has an examination of the impact of the Community Right to Challenge been undertaken following the government response?

Q11. If so, on what date and which commissioners were involved?

Q12. If the information is not held, can you confirm that it was held at the time of response to the select committee or afterwards, and the reason it has since become unavailable?