

Freedom of Information Act 2000 (FOIA)

Internal Review of Freedom of Information Reference No: IR-2019-69

Council received your request for information on 28 January 2019 and acknowledged receipt on 29 January 2019.

Council responded to your request on 5 March 2019 and advised that the information requested was exempt by application of Section 43 (2).

Council received your request for internal review on 5 April 2019 and acknowledged receipt on 10 April 2019.

Internal Review:

The purpose of an Internal Review, in the first instance, is to assess the handling of your Freedom of Information/Environmental Information Regulations request and then to determine whether the original decision given to you was correct. The review has been carried out by a senior officer who was not involved in the original decision making process.

The appointed senior officer has considered whether:

- FOIA/EIR has been properly applied, in particular, whether the information requested genuinely falls within the exemption(s)/exception(s) cited and (where relevant) whether the balance of the public interest's favours not permitting disclosure;
- there have been any developments since the original response, including any points made by you when making your complaint, that should alter our approach;
- it is possible to provide any further information to you; and
- there are any lessons for handling future cases.

Outcome:

The outcome of the internal review found that Council's response dated 5 March 2019 was compliant with FIOA in terms of it genuinely falls within the cited exemption Section 43 (2).

The information requested relates to planning legal bills, seeking details of the annual budget and spend per year from 1 April 2015. Council considered the information exempt from disclosure under Section 43 (2) citing release into the public domain would prejudice its commercial interests.

During the internal review, the officer noted the procurement for Council's legal services, which includes planning, was set to come under review in the approaching new financial year (April 2019 to March 2020). The release of details on budgets and spend in such close proximity to the tendering process would have adverse effect on Council's commercial interests. The officer is satisfied Section 43 (2) exemption was engaged.

Section 43 is a qualified exemption; therefore, Council went on to apply the public interest test set out in FOIA Section 2 (2).

The officer re-examined the public interest test and noted that it referenced the tender process was due for review in the new financial year and rationalised how disclosure of the information would not be in Council's commercial interests. Therefore, the officer is satisfied that the public interest factors in maintaining the exception outweighs the considerations for release.

There have been no developments since the original response that would alter the Council's approach; therefore, it considers that the information requested is therefore still exempt from disclosure under FIOA.

During internal review, the officer also noted that there was a delay in providing you with the outcome of your internal review request and Council would like to take this opportunity to apologise for this and any inconvenience it may have caused.

If you are not satisfied with the outcome of the internal review, you have the right to apply directly to the Information Commissioner who will undertake an independent review. Details can be found in the 'How to Appeal' section below.

How to Appeal

If you remain dissatisfied after an internal review decision, you have the right to apply to the Information Commissioner's Office. The Commissioner is an independent regulator who has the power to direct us to respond to your request differently, if he considers that we have handled it incorrectly.

You can contact the Information Commissioner's Office at the following address:

The Information Commissioner's Office – Northern Ireland

3rd Floor
14 Cromac Place
Belfast
BT7 2JB

Telephone: 028 9027 8757 / 0303 123 1114

Email: ni@ico.org.uk

Internet address: www.ico.org.uk/Global/contact_us