

Dear Mr. Morton,

Thank you for your request for an internal review. Please accept Council's apologies for not responding to your request for information in a timely fashion.

Your request asked for:

*"Can I please request a copy of the final report pertaining to the terms of Reference contained within this Freedom of Information Act 2000 request. I understand that a draft was completed in April 2015 and returned to Mr. Warren by senior officers of Wirral Council for h to consider additional information. I am assuming that in the intervening 16 months he has been able to complete this report."*

Wirral Council is unable to disclose a copy of the report and has relied on the exemption contained within Section 36 of The Freedom of Information Act 2000 to refuse your request. Section 36 can be relied on if in the reasonable view of the qualified person, it is appropriate to do so. I am the qualified person for the Council in my role as Monitoring Officer.

Your request is refused as I believe that disclosure would inhibit-

- (i) the free and frank provision of advice, or
- (ii) the free and frank exchange of views for the purpose of deliberation.

I have had regard to the guidance issued by the ICO, when reaching this opinion - "Prejudice to the effective conduct of public affairs", version 2.

I consider that if the information requested were disclosed, then the content of discussions by senior officers and other 3<sup>rd</sup> parties, concerning issues of appropriate gravity would be fundamentally undermined. My opinion is that such discussions would have been inhibited had those individuals not believed that their commentary and opinions would be kept confidential.

Disclosure of the information contained within the report would lead to a less candid exchange of view and ideas. The likelihood of prejudice is significant and weighty, inhibiting the provision of advice and the free and frank exchange of views. This may also impair the quality of decision making of the Council and have a 'chilling effect'. Paragraph 49 of the guidance states *"If the issue in question is still live, arguments about a chilling effect on those ongoing discussions are likely to be most convincing"*.

My opinion is that it is also relevant to have regard to the sensitivity of the information in question and I am satisfied that the qualified exemption contained in Section 36 (b) (i) and (ii) are engaged, having regard to the issues still being live and of a sensitive nature.

Where the Council finds that the qualified exemption is engaged then it is necessary to consider the test under s.2(2)(b), of FOIA, namely that “in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information”.

As the qualified person I have weighed these factors and believe that Public interest factors against maintaining the exemption are:-

- i. Public interest in the promotion of transparency and accountability in relation to the activities of public authorities

Public interest factors for maintaining the exemption are:-

- i. Reduction of the ‘chilling effect’ when matters of particular sensitivity are being discussed
- ii. Reduces the likelihood of inhibition of future discussion in respect of issues, which are still live and of a sensitive nature.

I consider that the public interest in maintaining the exemption outweighs the public interest in disclosing the information and I am therefore refusing your request for information under Section 17 of FOIA on the basis that the exemptions contained in Section 36 (2) (b ) (i) and (ii) apply to the requested information.

You have the right to complain to the ICO if you are dissatisfied with this reply to your request, please see contact details here <https://ico.org.uk/global/contact-us/>

Yours sincerely and sent on behalf of

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