



City of Westminster

Mr Owen Sheppard

By email only

Information Management Team
Westminster City Council
64 Victoria Street
London
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Telephone 0207 641 3921
Email foi@westminster.gov.uk

Our ref: 12250473

Your ref:

Date: 23 January 2020

Dear Mr Sheppard

Re: Request for Internal Review – 12250473

Thank you for your correspondence dated 3 December 2019 regarding the response to your recent request to the Council (12250473).

In your correspondence you asked for an internal review of the handling of your Freedom of Information Request, disputing the refusal under section 12.

Internal Review Procedure

I am sorry that you are dissatisfied with our handling of your requests and I have investigated your complaint in accordance with the Section 45 Code of Practice.

Should you remain dissatisfied with the handling of your request, you are entitled to contact the Information Commissioner under Section 50 of the Freedom of Information Act 2000. The contact details are provided at the end of this letter.

Response

Background

On 4 September, in response to separate request 10829925, you asked the following questions regarding how information was held in relation to section 106 accounts:

1 - Can you confirm that the council holds up-to-date records of how it has spent money from individual section 106 agreements?

2 - Can you provide an explanation of how these records are kept and in what form? For example are they kept in spreadsheets?

3 - If so, can you please confirm the names of these spreadsheets?

On 30 October 2019 the council provided a response to the above questions as follows (quoted verbatim):

1 - Can you confirm that the council holds up-to-date records of how it has spent money from individual section 106 agreements?

The Council keeps up to date records on S106 agreements. There is not reason to believe that spent money from individual agreements are not up to date.

2 - Can you provide an explanation of how these records are kept and in what form? For example are they kept in spreadsheets?

Historically, the records have been kept in different formats including spreadsheets, manual records and data management systems

3 - If so, can you please confirm the names of these spreadsheets?

Some of the records are kept in a spreadsheet called 'S106 Holding Account'

On 1 November 2019 the council received your request for the following:

Could I please request a copy of the spreadsheet called 'S106 Holding Account'.

As details of individual section 106 agreements are made public, I should hope there would be no reason for the council to consider withholding this information.

On 27 November 2019 the council issued a refusal in respect of the information setting out that responding to the request would exceed the “appropriate limit” as (copied verbatim)

“The Council received over 600 Section 106 agreements. (On average, an Agreement has 4 financial contributions and individual terms attached. Some contributions are ring-fenced others are generic in spending terms.

Information about actual spend of the funds requires collating from the relevant departments and finance teams for consistency and accuracy of information being provided). It is estimated it would take an officer one hour on average to review each record to establish the extent to which the requested information is held. The Council estimate it would cost around £15,000 to comply with your request.”

On 3 December 2019 you emailed the council to request an internal review of the handling of your request on the following grounds (copied verbatim):

“In your response on November 27 you said: "Information about actual spend of the funds requires collating from the relevant departments and finance teams.”

It should not require any work to collate information in order to comply with my request, as I am simply asking for an exact copy of the spreadsheet called 'Section 106 Holding Account'.

The council told me about the existence of this spreadsheet in its response on October 30 and I would simply like a copy of it."

Internal Review

The purpose of an Internal Review is to investigate the handling of a request in accordance with the Freedom of Information Act 2000. Your complaint reiterated your request for a copy of the spreadsheet, which had not been provided. As a result, this Internal Review will focus on section 1(1) of the Act, as set out in full under the Advice & Assistance section of this letter.

Section 1(1) requires a public authority to confirm whether requested information is held and, subject to any exemption which applies in respect of it, communicate it in response to the request.

On this occasion the request was refused, on the grounds that it would exceed the 'appropriate limit' to retrieve all of the requested information from across the council. Given the context of other similar requests from you at the time, the council answered the question in respect of full details of section 106 accounts, rather than for the specified spreadsheet which holds *some* of the requested information as communicated to you in the council's email of 30 October 2019.

However, the council did not address the question asked by way of this request (12250473) as it did not provide the specified spreadsheet in its response, nor did it cite any exemptions which applied in respect of it as a reason for not providing it. As a result, the council did not fully meet the obligations of section 1(1) in respect of the information described in the request.

Complaint outcome: your complaint in this regard is upheld.

Consequently, please find the requested spreadsheet provided with this response, subject to the following explanation:

As advised in an earlier council's response relating to this matter, the file you requested forms only part of the complete record held on s106 cases. Providing only a part of the record would have omissions of data held elsewhere making the response to appear misleading or inaccurate.

These spreadsheets are working documents that officers use as part of their role in managing S106 income and spend. Officers will use their knowledge and skills to manage this process and utilise a host of information sources, including these spreadsheets to manage this process.

Extracting parts of the information held in different formats (manual data) in attempting to respond to a bulk request would be exempt under the time restriction.

Should you wish to make a query on a specific case, the council is likely to provide a response after considering the time and cost involved in extracting the data.

Advice & Assistance

In the course of this Internal Review I have made reference to the following provisions of the Freedom of Information Act 2000

- 1 (1) Any person making a request for information to a public authority is entitled—
 - (a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and
 - (b) if that is the case, to have that information communicated to him.

This completes the internal review into the handling of your Freedom of Information Request under the Council's complaints procedure. Should you be dissatisfied with our response, you are entitled to contact the Information Commissioner under Section 50 of the Freedom of Information Act 2000. For your reference, I have provided the contact details below:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF
Tel: 0303 123 1113 or 01625 54 57 45
Fax: 01625 524510
Web: www.ico.org.uk

Should you have any queries, please contact me at the address at the top of this response.

Yours sincerely

Information Management Team