

12 April 2017

Mr P Lilley
Flat 3 Riversdale
17-19 Valley Drive
Harrogate HG2 0JJ

Dear Mr Lilley

RE: FREEDOM OF INFORMATION ACT 2000

I am the Director of the Harrogate Convention Centre and have not therefore previously been involved with your FOI request or with its subject matter which I believe, in summary, is the Council's decision in 2011 to discontinue men-only bathing sessions at the Turkish Baths and the history of this matter since then.

I have undertaken a review of the response (9 March 2017) to your request dated 13 February 2017. I have also seen the supplementary response sent to you by Jennifer Norton on 15 March 2017 and the earlier email to which she refers which was sent to you on 19 October 2016. I am satisfied that the two responses of 9 and 15 March, taken together, provide you with the information you requested but I note your continuing dissatisfaction and the fact that you require an internal review.

I can provide the following information:-

- 1) The Equality Act 2010, I am told, has not been substantially or relevantly amended in relation to the sex discrimination provisions since 2011. As Mrs Norton has already said the Council received legal advice in 2011; such advice necessarily consists of an interpretation of the statutory provisions and the case law at that date and the conclusion was that the Council was not acting unlawfully in all the circumstances. Mrs Norton has accepted that the interpretation of the law by an external senior barrister instructed by her, who gave his Opinion on 1 July 2016, supersedes the 2011 advice. Upon receipt of that advice the Council took steps to restore one men only session a week, following the same barrister's advice that this would remove the discrimination against men. I am satisfied that you have received a proper response to your FOI request in relation to this matter.
- 2) You ask for information as to when any senior Council official first became aware that the discontinuance of the men only sessions was **potentially** (my emphasis) a contravention of the 2010 Act. Mrs Norton instructed the barrister to give his opinion on 27 June 2016. She clearly, by that date, wanted to check that the 2011 advice had not been superseded. Counsel's Opinion was received on 1 July 2016.

- 3) These are complex issues requiring careful consideration. With respect and looking at this as a non-lawyer I can understand why the Council was not able to simply accept your assertions of 'blatant discrimination' without seeking expert opinion.
- 4) Legal advice was received in 2011 that the decision to end men only sessions was not unlawful sex discrimination. Mrs Norton has told you that this legal advice has now been superseded and the Council would not now repeat the decision taken in 2011. She has also told you that 'from the date when men only sessions were removed to when they were reinstated' is the period of time over which a service was provided to one gender which was not made available to the other.

There was no intention to discriminate. I believe that you have had a proper response to your FOI request in this respect and have no other information to give you.

Thereafter, as the Council has acknowledged, questions were asked again by you beginning in November 2015 and a question put to Council by Councillor Webber in December 2015. In response an operational review of service provision was undertaken. There was also a re-assessment of the legal position.

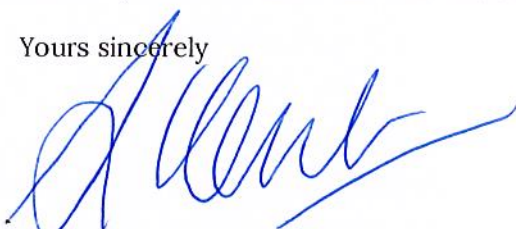
I believe that the Council has taken steps to properly respond to your complaints and to rectify the position by restoring the tradition of men only bathing at the Turkish Baths. The Council is committed to making those sessions successful and popular.

I hope that it is now possible for us to agree that your queries are resolved and this review is complete but I am obliged to give you the address to write to if you wish to appeal:

Information Commissioner, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF.

The telephone number is 0303 123 1113 and the website is www.ico.org.uk

Yours sincerely



Simon Kent
Director

