

Reference: FPR0987662

Freedom of Information Act 2000 (Section 48) Practice Recommendation

Oxford City Council
20 December 2022

Summary

Oxford City Council (the Council) has had a consistently poor level of performance in terms of its response times to FOIA requests. This has been highlighted by the disproportionately high number of complaints about response times submitted to the Information Commissioner, as well as the high number of decision notices he has had to issue to the Council to compel it to respond to outstanding requests. The Commissioner is also concerned about a failure to carry out internal reviews. The Commissioner has reached the view that the Council's request handling practices do not conform to part 4 and part 5 of the section 45 Freedom of Information Code of Practice, issued by the Cabinet Office in July 2018 (the Code).

Recommendations

The Council has informed the Commissioner that it has appointed a new staff member with responsibility for handling FOIA matters, which should lead to improvements to its information request handling processes. The Commissioner has therefore designed the following recommendations to support and enhance the Council's plans to improve its information rights practices. In considering these recommendations, we expect the Council to ensure that it meets the requirements of all information rights legislation to which it is subject.

Area of Code	Non-conformity	Recommendation of steps to be taken
Part 4 – time limits for responding to requests. Section 4.1 of the Code highlights the “clear” requirement that public authorities respond to requests for information	Between February and October 2022, the Commissioner issued seven decision notices which recorded a timeliness breach by the Council in the handling of information requests. This is in addition to a further five complaints received during the same period	The Council should ensure that requests for information are responded to in a timely manner. When chased to issue responses by the Commissioner's case officers, the Council should respond in a timely and appropriate manner. This will avoid unnecessary decision notices and the subsequent further delays for the requesters.

Area of Code	Non-conformity	Recommendation of steps to be taken
<p>promptly and within 20 working days of receipt in accordance with section 10(1) of FOIA.</p>	<p>about the timeliness of responses to information requests. These complaints were resolved informally without a decision notice.</p>	<p>The Council should use the Commissioner's FOI self-assessment toolkit to improve its timeliness compliance.</p> <p>In accordance with part 8.5 of the Code the Council should publish its information access request statistics and make these easily accessible on its website. The statistics should include the number of information access requests that have not been processed and the number of completed requests where the processing took longer than 20 working days.</p> <p>The Council's request handling procedures should include provision for when a response is late, or is likely to be late at any stage of the internal processes. It must be clear when and to whom the matter will be escalated, who is responsible for taking action, the action they will need to take, and by when.</p> <p>The Council must ensure that its information rights training is sufficient to ensure that it has adequate coverage in place in order that request handling times do not fall below a compliant level in the event of the departure of key staff members.</p>

Area of Code	Non-conformity	Recommendation of steps to be taken
		<p>The Council should create an action plan, incorporating any recovery plan already in development, with appropriate processes put into place to ensure 90% timeliness is achieved by the end of March 2023. This action plan should be supported by a 'lessons learned' exercise, which examines the root cause of delays from allocation through to clearance at different stages, with mitigations for any recurring problems addressed specifically in the plan.</p>
<p>Part 5 – Internal reviews</p> <p>Sections 5.4 and 5.5 of the Code establish that internal reviews should be carried out within 20 working days, or 40 working days where the matter is complex.</p>	<p>Between March and October 2022 the Commissioner received 15 complaints in which the Council had failed to carry out a prompt internal review.</p>	<p>The Council should ensure that internal reviews are carried out and the outcome communicated to the requester in a timely manner. In order to ensure that this happens consistently, the Council should refresh its procedures for carrying out internal reviews and ensure that these are effective and robust.</p>

Reasons for issuing this Practice Recommendation

Through the evidence provided in a series of complaints it appears that the handling of FOIA requests within the Council has entered a decline. Over several months, the volume of complaints received by the Commissioner relating to a lack of timeliness by the Council at various stages of the FOIA request process has surged. The impression created by this evidence has been added to by the Commissioner’s own experience of dealing with the Council, including multiple examples in recent

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months in which steps ordered within decision notices have been complied with late and only after the Commissioner notified the Council of his intention to enforce the decision notice by seeking a contempt of court judgement against the Council.

This practice recommendation formalises the Commissioner's concerns arising from the evidence he has gathered through complaints and holds the Council accountable for improving its freedom of information request handling practices and, in turn, increase public confidence and trust in its information rights practices.

Whilst not covered by the Code, the Commissioner has commented in this practice recommendation on the lack of timely compliance with steps ordered in decision notices due to his concern about this. When the Council receives a decision notice that requires it to take steps, it is vital that it ensures that these steps are carried out promptly and at the latest within the time period specified in the notice.

Failure to comply

A practice recommendation cannot be directly enforced by the Commissioner. However, failure to comply with a practice recommendation may lead to a failure to comply with FOIA, which in turn may result in the issuing of an enforcement notice. Further, a failure to take account of a practice recommendation may lead in some circumstances to an adverse comment in a report to Parliament by the Commissioner.

The Council should write to the Commissioner by March 31 2023 to confirm that it has complied with the recommendations above and how it has achieved this.

The Commissioner will have regard to this practice recommendation in his handling of subsequent cases involving the Council.

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Signed

**Ben Tomes
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF**