

Reference: FPR0987668

Freedom of Information Act 2000 (Section 48) Practice Recommendation

Liverpool City Council

31 July 2023

Summary

Liverpool 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 number of decision notices he has had to issue to the Council to compel it to respond to outstanding requests. Following engagement by his staff with the Council about the underlying reasons for these failings, the Commissioner has reached the view that the Council’s request handling practices do not conform to part 4 of the section 45 Freedom of Information Code of Practice, issued by the Cabinet Office in July 2018 (the Code).

Recommendations

Despite ongoing informal engagement over a significant period around the issue of timeliness, the Council’s timeliness rate for responding to information requests continues to be poor. 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
<ul style="list-style-type: none">Part 4 – time limits for responding to requests <p>Section 4.1 of the Code highlights the “clear” requirement that public authorities respond to requests</p>	<p>Since April 2022, the Commissioner has received 46 complaints about the Council. Many of these complaints included a timeliness breach as the request had not been</p>	<p>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.</p>

<p>for information promptly, and within 20 working days of receipt in accordance with section 10(1) of FOIA.</p>	<p>responded to within the statutory time limit. Eight of the cases resulted in a decision notice finding a timeliness breach by the Council.</p> <p>For the six month period December 2022 to May 2023 the Council responded to an average of 63% of requests within the statutory time limits. As of 7 July 2023, 48% of the Council's total open information request caseload was comprised of requests to which it had failed to provide a response within the statutory time limits.</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 who to escalate, 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> <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 November 2023. This action plan should be supported by a 'lessons learned' exercise, which examines the root cause of delays from allocation</p>
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		through to clearance at different stages, with mitigations for any recurring problems addressed specifically in the plan.
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Reasons for issuing this Practice Recommendation

The Council has consistently been one of the public authorities within the local government sector about which the Commissioner has received the most FOI complaints in recent years. Between 1 April 2022 and 27 July 2023 the Commissioner received 46 complaints about the Council. Many of the complaints the Commissioner has received included a timeliness breach as the request had not been responded to within the statutory time limit.

The Council's own figures show that, as of 7 July 2023, its response was overdue to 99 FOI requests. The total number of information requests awaiting response on this date was 208, as such overdue requests made up 48% of the Council's total open information request caseload.

As of 19 June 2023 (the most recent figures provided to the Commissioner), 30% of the total overdue cases were more than 40 days over the statutory limit. Of these, seven requests exceeded the statutory limit by over 100 days.

This practice recommendation formalises the Commissioner's concerns 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.

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.

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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 30 November 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.