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To: SARguidance
Cc: Information Governance
Subject: ICO Consultation Draft Right of Access Guidance

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FAO ICO

Please see below query in respect of ICO consultation draft right of access guidance P.16; *'What should we consider when responding to a request?' 'How long do we have to comply?'*

Draft guidance states:

'You should calculate the time limit from the day you receive the request, fee or other requested information (whether it is a working day or not) until the corresponding calendar date in the next month'.

*'If this is not possible because the following month is shorter (and there is no corresponding calendar date), the date for response is the **last day of the following month**'.*

*'If the corresponding date falls on a weekend or a public holiday, you have until the **next working day to respond**'.*

The draft guidance goes on to provide examples (including provision for extension);

'An organisation receives a request on 7 August. The time limit starts from the same day. The request is complex so the organisation extends the period by two months. The organisation has until 7 November to comply with the request. If 7 November falls on a weekend, or is a public holiday, the organisation has until the end of the next working day to comply'.

The council understands the position insofar as the time limit applies to the corresponding calendar date in the next month and that should there be no corresponding calendar date in the next month, the date for response falls on the last day of the next month. This in effect reduces the time limit for response in those circumstances. This is understood to be in line with a Court of Justice of the European Union ruling.

However, where a corresponding date in the next month falls on a weekend or public holiday, the time limit falls on the next working day. This has the effect of extending the time limit for response as distinct from truncating it as in the example above.

Whilst the council is capable of managing the position insofar as a practical approach to the time limit is concerned e.g adopting a 28 day period, it would be helpful to understand the reasoning behind what appears to be conflicting rationale, regarding circumstances in which time limit is reduced and where it is extended in relation to corresponding calendar dates and public holidays.

We look forward to receiving your response.

Regards
Information Governance Unit

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