

Reference: FPR0987674

Freedom of Information Act 2000 (Section 48) Practice Recommendation

Southend-on-Sea City Council

19 December 2023

Summary

Southend-on-Sea 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 a significant increase in the frequency of decision notices that have been issued against the Council recording a breach of section 10 of FOIA. 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

The Council is in the process of implementing a number of 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
<p>Part 4 – time limits for responding to requests</p> <p>Section 4.1 of the Code highlights the “clear” requirement that public authorities respond to requests for information promptly, and within 20 working days of receipt in accordance with section 10(1) of FOIA.</p>	<p>Since 12 June 2023, the Commissioner has issued eight decision notices against the Council, all of which included a section 10 breach as the request had not been responded to within the statutory time limit. Six of the cases resulted in a section 10 decision notice requiring the Council to respond to the request and the remaining two cases recorded that the response was provided late.</p>	<p>The Council should ensure that requests for information are responded to in a timely manner.</p>
	<p>In the financial year 2022-23, the Council responded to 66.15% of FOIA requests within the statutory time limit. The most recent statistics provided by the Council, which cover the period April to September 2023, show that this rate has now reduced to 62.28%.</p>	<p>The Council should use the Commissioner’s FOIA self-assessment toolkit to improve its timeliness compliance.</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 is clear when and to who to escalate, who is responsible for taking such 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 the recovery plan already in development, with appropriate processes put in place to ensure 90% timeliness is achieved by 1 May 2024. 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>The action plan should be published on its website for full transparency about the improvements it is making.</p>
		<p>The Council should publish its information access request statistics in accordance with part 8.5 of the Code and make these easily accessible on its website. These statistics should include the detail specified in part 8.5 of the Code and be updated quarterly in accordance with part 8.6 of the Code.</p>

Reasons for issuing this Practice Recommendation

The Commissioner is issuing a Practice Recommendation at this time due to the poor level of timely responses to information requests by the Council. This has led to a significant increase in the number of decision notices issued against the Council in recent months. The statistics provided by the Council show the rate of responses within 20 working days for the first half of the financial year 2023-24 to be 62.28%, which is below an already poor rate of 66.15% recorded for the year 2022/23. At the time of the Council's last contact with the Commissioner, the Council's statistics recorded that of the 17 requests that had still not been responded to within the statutory time limits, seven were overdue by more than one month. Four of these seven requests were at least four months overdue.

The statistical information currently published by the Council about information request handling, and plans for improvement of the process, is contained within the "Information Governance Update and Senior Information Risk Owner (SIRO) Annual Report" (SIRO reports). The frequency with which this information is published and the level of detail it provides about the Council's handling of information requests does not meet the recommendations set out within parts 8.5 and 8.6 of the Code.

This practice recommendation formalises the Commissioner's concerns and holds the Council accountable for improving its freedom of information request handling practices. This will, 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. 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 1 May 2024 to confirm that it has complied with its recommendations and how it has achieved this.

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