

Reference: FPR0987679

Freedom of Information Act 2000 (Section 48) Practice Recommendation

Westmorland and Furness Council

9 July 2024

Summary

Westmorland and Furness Council (the Council) has a poor level of performance in terms of its response times to FOIA requests. This has been highlighted following engagement between the Commissioner’s staff and the Council where it was discovered that the Council were not responding to a significant proportion of requests within the statutory timeframe of 20 working days. 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 Commissioner has designed the following recommendations to help the Council 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</p>	<p>In the fourth quarter of the 2023/24 financial year the Council responded to 52% of FOIA requests within the statutory time limits. The Council’s statistics show that in April 2024 this rate reduced to 44%.</p>	<p>The Council should ensure that requests for information are responded to in a timely manner.</p>
		<p>The Council should use the Commissioner's FOI self-assessment toolkit to improve its timeliness compliance.</p>
		<p>The Council’s request handling procedures should include provision for when a response is</p>

accordance with section 10(1) of FOIA.		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 action, the action they will need to take, and by when.
		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.
		The Council should create an action plan with appropriate processes put in place to ensure 90% timeliness is achieved by 1 December 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.
		The action plan should be published on its website for full transparency about the improvements it is making.
		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.
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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. Having previously reported a higher rate of timeliness to the Commissioner, recent statistics provided to the Commissioner by the Council show the rate of responses within 20 working days for the last quarter of the 2023/24 financial year to be 52%. This reduced to 44% in April 2024, albeit the Council has since reported an improved draft timeliness figure for quarter one of the 2024/25 financial year. The Council's statistics also recorded that of the 29 requests received in the last quarter of the 2023/24 financial year that had still not been responded to at the time those statistics were supplied, 25 were overdue by more than one month. 12 of those 25 requests were at least two months overdue with the oldest request overdue by 98 days.

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.

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The Council should write to the Commissioner by 1 December 2024 to confirm that it has complied with its recommendations and how it has achieved this.

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