

Freedom of Information Act 2000 (Section 48)

Practice Recommendation

Date 15 December 2009

Public Authority: Cardiff County Council

Address: County Hall
Atlantic Wharf
Cardiff
CF10 4UW

In accordance with his enforcement strategy, the Information Commissioner has conducted an audit of section 50 complaints relating to Cardiff County Council (the "Council"). As a result, the Commissioner is of the view that the Council's practice does not conform to the following Code of Practice issued by the Secretary of State for Constitutional Affairs in November 2004:

- Discharge of Public Authorities' Functions under Part 1 of the Freedom of Information Act 2000 issued under section 45 of the Act (the 'Code').

A full copy of the Code can be found at:

<http://www.justice.gov.uk/guidance/docs/foi-section45-code-of-practice.pdf>

Summary

In February 2009, following an audit of section 50¹ complaints, the Commissioner's Good Practice and Enforcement Team wrote to the Council seeking clarification of its request and complaint handling procedures.

In May 2009, having not received a satisfactory response to his enquiries, the Commissioner issued the Council with an Information Notice under section 51 of the Freedom of Information Act 2000 (the "Act"). In June 2009 the Council responded. On the basis of the information provided with the Council's response, the Commissioner was concerned that the Council might not be conducting internal reviews in accordance with the recommendations of part VI of the Code.

The Commissioner was particularly concerned that the Council was failing to conduct reviews promptly and that in so doing was failing to adhere to the Code and to his published guidance in this respect.

¹ Section 50 'Application for decision by the [Information] Commissioner'

Paragraph 39 of the Code states that internal reviews should be clear and simple and should “....encourage a prompt determination of the complaint.”

The Commissioner’s guidance, published in February 2007, sets out his expectations regarding the time which public authorities should take to complete internal reviews. It echoes the Code’s focus on promptness and explains that:

- a reasonable time for completing an internal review is considered to be 20 working days from the date of receipt;
- there may be a small number of exceptional cases in which it may be reasonable to take longer;
- in no case should the time taken exceed 40 working days².

The information provided by the Council showed a number of examples of internal reviews which appeared incomplete, despite being in the Council’s possession for between 100 and 924 working days. Of the reviews which had been completed, a significant number had taken over 200 working days. In view of the severe nature of these delays, the Commissioner considered the possibility that there had been an administrative oversight. In July 2009 the Commissioner wrote to the Council to establish the accuracy of the information provided. The Commissioner also advised the Council that it should complete the oldest of its internal reviews as a matter of urgency and explained that, based on the information provided, the Commissioner would consider issuing the Council with a practice recommendation.

In September 2009 the Council responded and confirmed that the information provided to the Commissioner should not be taken to literally reflect the timescales for its internal reviews. In explaining why this was the case, the Council pointed to its request handling database (the primary source for information about its reviews) which had limited functionality and did not provide an accurate picture of the actual timescales taken to complete internal reviews. The Council provided one example where, by referring to the case file associated with the request, it was able to provide the Commissioner with a more accurate figure regarding the time taken for the review to be completed.

In addition to his concerns about the timescales for the Council’s reviews, the Commissioner was also concerned by the Council’s explanation regarding the manner in which requests for internal review were logged and tracked, specifically the Council’s admission that the statistics held were inaccurate. The Commissioner voiced his concerns that, in relation to the recording of complaints, the Council did not appear to be following the practice recommended in the Code. He explained that, on this basis he must consider the option of issuing the Council with a practice recommendation. However, prior to taking further action the Commissioner gave the Council another opportunity to clarify its procedure for recording internal reviews and asked to be provided with accurate information about their timeliness.

² Guidance available on the ICO website here:

http://www.ico.gov.uk/upload/documents/library/freedom_of_information/detailed_specialist_guides/foi_good_practice_guidance_5.pdf

Regrettably, the Council failed to provide the necessary clarification within the required timeframe. This, along with evidence of non-conformity collated by his FOI Good Practice Team, a lack of meaningful engagement, and the continued delays experienced in obtaining timely responses from the Council, led the Commissioner to issue this practice recommendation which finds that the authority has failed to conform to the following parts of the Code:

- Part VI – Complaints procedures

The Commissioner's Role

1. The Commissioner's duty is to promote observance of the Code of Practice under section 45 as a means of encouraging good practice by public authorities in carrying out their obligations under the Act.
2. Section 48 of the Act empowers the Commissioner to issue a Practice Recommendation, where it appears to him that the practice of a public authority does not conform to the Code. Such a recommendation will identify the provisions of the Code with which, in the Commissioner's opinion, the authority's practice does not conform and will specify the steps which he considers are necessary to promote conformity.
3. Section 47 (2) of the Act allows for the Commissioner to disseminate, in such form and manner as he considers appropriate, information that appears expedient to him to provide to the public on:
 - the operation of the Act
 - good practice
 - other matters within the scope of his functions under this Act

Chronology

4. On 2 February 2009, after an audit of section 50 complaints identified instances of poor practice, the Commissioner wrote to the Council to seek clarification of its request and complaints (internal reviews) handling procedures. The Commissioner also asked the Council to provide statistics showing the timeliness of its responses to requests and internal reviews.
5. On 17 February 2009 the Council sent an interim response, providing copies of its formal procedure and associated guidance and confirming that a full reply would be issued by 6 March 2009.

6. On 6 March 2009 the Council sent an email to the Commissioner explaining that a full response to his enquiries would be sent within a week. The Council also provided copies of its internal FOI newsletters.
7. The Council responded on 20 March 2009, stating that, in relation to the Commissioner's request to be provided with statistics showing its handling of requests, the Council did not have direct statistics as it did not have a central tracking or recording mechanism. The Council confirmed that it would send the information it was able to compile separately but that this would be far from complete. In relation to the Commissioner's request to be provided with statistics regarding its internal reviews, the Council confirmed that these would be provided under separate cover.
8. On 26 March 2009 the Commissioner wrote to the Council and explained that he would postpone responding in full until the outstanding statistics had been provided. The Commissioner also asked the Council to provide clarification of its mechanisms for recording and tracking requests and commented on the Council's procedure (provided with its response of 20 March 2009) for handling complaints. The Commissioner noted that the procedure appeared to suggest that the Council only conducted internal reviews where complaints related to the refusal of a request and, in so doing, failed to accommodate complaints relating to procedural failures such as delayed responses. The Commissioner advised that, if this was the case, the Council should amend its procedure so as to conform to the Code, paragraph 38 of which recommends that complaints procedures should be engaged following *any* written expression of dissatisfaction in relation to the handling of a request.³
9. On 21 April 2009 the Commissioner wrote to the Council requesting a full response to his initial letter and subsequent enquiries contained within his letter of 26 March 2009.
10. Having not received a response the Commissioner wrote to the Council on 12 May 2009 stating that if the requested information was not provided within 10 working days an information notice would be issued under section 51 of the Act.
11. On 27 May 2009, having not received a response from the Council, the Commissioner issued an information notice which asked the Council to provide the following information:
 - Statistics or any information held by the Council recording how many requests for information it has received and how long, in each instance, it has taken to respond.

³ The Code is available online here:

<http://www.justice.gov.uk/guidance/docs/foi-section45-code-of-practice.pdf>

- Statistics or any information held by the Council recording how many requests for internal review have been received and, in each instance, how long the review took.
 - Details of how and in what form (electronically and/or paper form) the Council logs and keeps track of requests for information, as requested in the Commissioner's letter to the Council of 26 March 2009.
 - As per the Commissioner's letter to the Council of 26 March 2009, clarification of the Council's internal review procedure and assurances that, where this does not conform to the recommendations of the section 45 code of practice and the Commissioner's own guidance, appropriate changes will be made.
12. The Council responded to the information notice on 12 June 2009. In this response the Council provided further explanation of its mechanisms for logging and tracking requests. The Council explained that, since January 2005, a department referred to as 'Information Management Services' (IMS) has logged and tracked all requests known to, or dealt with by IMS where the Act (or the EIR) has been engaged. The primary tracking has been via a database which records only basic information. The Council confirmed that this system had limited functionality and that it was mainly used as a search aid to find similar requests or requests made by a specific person. The database is supported by a spreadsheet which records "milestones" for each case and it is this which forms the basis of the statistical information which the Council provided to the Commissioner.
13. The Council further explained that IMS uses an entirely paperless system for managing FOI requests and that each case has its own electronic case file folder where all correspondence (including scanned documents) is held. The Council clarified that, in addition to requests tracked and handled by IMS, service areas within the Council have systems for handling their own requests. The Council did not specify the form these systems take but clarified that the requests logged and tracked by IMS do not represent all requests received by the Council. Accordingly, the statistics provided to the Commissioner contain only those requests directly handled by IMS.
14. The Council's response explained that it had, for some time, been concerned that its systems for logging and tracking requests were not providing accurate information about the impact of FOI on its resources or its levels of compliance. In addition to requests handled within service areas not being incorporated into IMS' statistics, the Council explained that requests handled as 'normal business' are also excluded from the formal record. In order to address this, the Council confirmed that, since April 2009 a more formal system had been introduced which required service areas to track and record all formal requests using a spreadsheet. The information contained within the spreadsheet is reported back to IMS. The Council provided the Commissioner with a blank copy of the spreadsheet in use.

15. In addition to providing information about its handling of requests, the Council also supplied the Commissioner with a spreadsheet showing details of requests for internal review. The Council explained that, unlike the information held in relation to requests, this should provide an accurate record of most, if not all formal reviews, as its review procedure requires the involvement of IMS.
16. In response to the Commissioner's concerns about its internal review procedure, the Council explained that it was not the case that it only engages this procedure where a complaint relates to the refusal of a request. The Council did, however, confirm that the wording of its procedure was misleading in this respect and that it would amend this accordingly. In closing, the Council also acknowledged that its performance as reflected in the statistics provided did not meet the required standards. It explained that this had been recognised when the budget for 2009-10 was set with extra resources being made available to recruit 2 additional staff. The Council anticipated that this together with the changes to its request logging and tracking procedures would lead to substantially improved performance by the second quarter of 2009-10.
17. On 6 July 2009 the Commissioner wrote to express his concerns that, according to the spreadsheet provided, a number of the Council's internal reviews remained outstanding after 100 working days. To illustrate his concerns, the Commissioner provided the Council with tables (reproduced below) showing his calculation of the timescales both in relation to outstanding reviews and completed reviews:

Outstanding Reviews

RFI reference	Appeal received	Appeal response	Approximate working days elapsed (as of 12 June 2009)
173	25/09/2005	outstanding	924
49	11/03/2006	outstanding	807
452	15/11/2006	outstanding	638
504	12/06/2007	outstanding	498
571	02/07/2007	outstanding	484
666	06/12/2007	outstanding	375
672	12/12/2007	outstanding	371
980	03/10/2008	outstanding	171
845	23/10/2008	outstanding	157
846	23/10/2008	outstanding	157
924	19/01/2009	outstanding	100
980	18/03/2009	outstanding	59

Completed Reviews

RFI Reference	Appeal Received	Appeal Response	Approximate working days
723	11/02/2008	21/04/2009	296
911	15/10/2008	11/11/2008	20
760	11/12/2007	23/10/2008	216
789	25/06/2008	07/10/2008	72
747	20/04/2008	06/06/2008	33
752	14/01/2008	21/04/2008	68
687	17/01/2008	14/02/2008	21
637	15/11/2007	13/02/2008	60
524	18/06/2007	24/07/2007	26
292	13/06/2006	19/04/2007	213
475	25/01/2007	14/02/2007	15
429	21/12/2006	02/02/2007	28
476	25/01/2007	30/01/2007	4
357	03/07/2006	21/08/2006	34
273	28/02/2005	16/06/2006	324
174	30/09/2005	15/06/2006	177
201	22/03/2005	20/01/2006	209
82	24/01/2005	18/01/2006	247
25	08/12/2005	11/01/2006	22
65	05/01/2005	20/12/2005	242
58	08/12/2005	20/12/2005	9

18. The Commissioner explained that, in view of the severity of the delays represented in the statistics he would consider issuing the Council with a practice recommendation. However, as the delays appeared to be so severe the Commissioner acknowledged the possibility that there had been an administrative oversight. For example, it was possible that, in relation to ongoing reviews, the spreadsheet had not been updated to reflect that reviews had been completed. The Commissioner, therefore, asked the Council to confirm whether the statistics accurately reflected its internal review performance. He also asked the Council to provide assurances that the older outstanding reviews would be completed urgently. In view of the serious nature of this matter and the delays already experienced during the investigation, the Commissioner asked the Council to respond within 10 working days.
19. On 27 July 2009, having not received a response to his enquires, the Commissioner wrote the Council again.
20. On 4 August 2009 the Commissioner wrote to the Council seeking a response to his letter. The Commissioner confirmed that if the Council declined to respond within 10 days he would proceed on the basis that the internal review statistics provided were accurate and a practice recommendation would be drafted and issued.

21. On 6 August 2009 the Council wrote to the Commissioner and confirmed that the officer handling the case was away from the office but that the Commissioner's letter would receive immediate attention upon their return on 17 August 2009.
22. On 2 September 2009 the Commissioner wrote to the Council requesting a response to his letter.
23. On 3 September 2009 the Council responded to the Commissioner. In relation to the Commissioner's query about the internal review statistics, the Council explained that the information set out in the spreadsheet "...should not be taken literally as reflecting the timescales for review." The Council clarified that this was the best information available, as tracked through the database in use since January 2005. As regards the reason for providing the Commissioner with information which did not reflect the actual timescales taken, the Council confirmed that "...the information was supplied as is, because your request was for the information held and we did not in any way wish to massage the figures in making a full disclosure."
24. The Council explained that it could have taken the time to retrieve and review all of the cases showing on the spreadsheets but this would take a substantial effort and divert resources away from current matters. The Council also confirmed that, going forward, it was seeking to develop a tracking and monitoring system to address the functional shortcomings of its existing system.
25. The Council provided further explanation of the inaccuracies in the information provided to the Commissioner, stating that, in relation to reviews that appeared ongoing, this might have occurred for a number of reasons, including:
 - Some matters may have been recorded as reviews which were purely internal investigations into how a matter was handled – not as a result of a request by the original applicant.
 - Reviews may have been fully completed but the fact not recorded on the database.
 - The request or review may have become subsumed in a subsequent matter dealing with the same issue.
 - In a small number of historical cases when resources were severely depleted the Council may not have satisfactorily completed the review. This would occur if a review response was not being chased by the applicant after, say, 12 months.
 - Inaccuracies in recorded data, e.g., 'appeal date' may actually be the request date.

26. In relation to the specific 'ongoing' reviews the Council provided further details. The Council explained that some of the reviews in question were not 'actually' reviews, but related to complaints about non-FOI matters. In other instances, reviews were sidelined after being overtaken by events (such as appeals to the Commissioner or the Information Tribunal). The Council was able to confirm that some reviews were still ongoing and that these were now being prioritised.
27. In relation to the 'completed' reviews recorded in the spreadsheet the Council advised the Commissioner that he should be similarly circumspect about the accuracy of the information. The Council explained that a more accurate picture of the time each review took could be gleaned by, in each instance, examining the relevant electronic case file and provided an example of this approach using the example of review reference RFI760. According to the spreadsheet, this review was requested on 11 December 2007 and completed on 23 October 2008, after a total of 216 working days. An examination of the case file showed that the review was actually requested on 28 April 2008 and completed on 9 October 2008, meaning the total time taken would have been 114 working days. The Council acknowledged that this was not in itself a satisfactory timescale for review but illustrated the deficiencies of its recording systems.
28. On 14 September 2009 the Commissioner wrote to the Council and confirmed that he remained concerned about the Council's practice in relation to the conducting of its internal reviews and that he had some difficulty understanding the various explanations provided regarding the provenance and accuracy of its statistics.
29. In relation to the issue of accuracy, the Commissioner made reference to the Council's response of 12 June 2009 which explained that the spreadsheet provided contained details of all internal reviews known to IMS. Whilst the Commissioner accepted the point that reviews handled within service areas may not be included on the spreadsheet, he had not previously been advised that the spreadsheet as a self-contained record of formal reviews might in itself contain inaccurate information. The Commissioner also explained that the relationship between the review spreadsheet and the database (referred to in the Council's response of 12 June 2009) used for recording requests was unclear.
30. The Commissioner explained that the manner in which a public authority records and tracks requests or complaints is not usually a matter of concern. However, where the recorded information does not reflect the reality, this clearly represents poor practice. The Commissioner expressed concerns that the Council's recording of complaints did not conform to the recommendations of the Code. Paragraph 43 of the Code states:

“Records should be kept of all complaints and of their outcome. Authorities should have procedures in place for monitoring complaints and for reviewing, and, if necessary, amending, procedures for dealing with requests for information where such action is indicated by more than occasional reversals of initial decisions.”⁴

31. In his response the Commissioner also commented on the clarification provided by the Council in relation to reviews marked as ‘ongoing’ in the spreadsheet. The Commissioner set out his understanding of events in a table (reproduced below) which shows that, of reviews which had actually been completed, none were completed in line with the Commissioner’s standard target of 20 working days.

Reference	Status
RFI980	Completed after 85 working days
RFI924	Completed after 37 working days
RFI890	Not an FOI complaint
RFI845 & 846	Incomplete after 213 working days
RFI672	Resolved with ICO decision notice
RFI666	Appears not to have been an FOI complaint
RFI571	Incomplete after 540 working days. Review was deferred after requester became subject to Council’s vexatious complainant policy.
RFI504	Request for review appears to have been superseded by events.
RFI452	Showing as ‘complaint received’ on the database? Unclear whether this means that the review is still incomplete (requested on 15/11/06).

32. In relation to completed reviews, the Commissioner noted the example provided of the corrective approach taken in relation to review reference RFI760, which, in addition to reporting a revised timescale in relation to that specific review, demonstrated the general point about the unreliability of the spreadsheet. However, the Commissioner noted that, even though the revised timescale produced by applying this corrective approach was, in this instance, a smaller one, it was equally possible that the same approach applied to all completed reviews might reveal longer delays than those reflected in the spreadsheet. The Commissioner explained that it seemed likely that the Council’s recording practice in relation to complaints did not conform to the Code. However, in order to assist him in reaching a view about its review performance he also asked the Council to provide accurate information in relation to all its completed reviews.

⁴ The section 45 code of practice is available online here:
<http://www.justice.gov.uk/guidance/docs/foi-section45-code-of-practice.pdf>

33. On 20 October 2009 the Commissioner wrote to the Council, seeking a response to his letter of 14 September 2009.
34. On 29 October 2009 the Council responded to the Commissioner. The Council stated that it understood the reasons for the Commissioner's concerns about its practice and performance but emphasized that the matters raised by the Commissioner were historical in nature and did not reflect the Council's current practice.
35. The Council explained that it now had easy to understand spreadsheets which enable it to track the status of both internal reviews and appeals to the Commissioner and stated that it was unsure what benefit there was in analysing past errors. The Council identified resources as the cause for previous poor practice, with limited staffing meaning that dealing with the work itself took priority over record keeping. It explained that its current practice in relation to keeping of records of complaints did conform to the recommendations of the Code.
36. In relation to the accuracy of the statistics provided to the Commissioner, the Council accepted that it could have clarified in its original response that the spreadsheet might, in itself, contain inaccurate information. It explained that the purpose of providing information in this form was to disclose the records as they existed "...without attempting to massage the information in our favour."
37. In its response the Council also provided further explanation of the provenance of the actual information contained within the internal reviews spreadsheet. It was explained that the spreadsheet was compiled from a number of sources, including the request database and the associated electronic case files. The Council explained that case files were kept in one of three folders: 'open', 'closed' and 'appeals'. It appears that this was a source of much error as there would be appeals which remained in the 'closed' folder, because they had not been transferred and matters which appeared in the 'appeals' folder which were in fact closed.
38. In response to the Commissioner's request that the same corrective approach (i.e., the steps necessary to produce accurate statistics) applied to review reference RFI760 be applied to all such reviews in the spreadsheet, the Council confirmed that it was unsure what was being suggested. It explained that there was no reason for it to do this in its previous response as "We were answering your specific questions and as indicated the spreadsheet is not a working document as we now use something very different."
39. The Council also clarified the status of the remaining reviews marked 'outstanding' or 'nothing in case file' in the spreadsheet. In brief, this clarification appears to explain that these reviews have been discontinued with no formal decision being issued.

40. On 30 October 2009 the Commissioner wrote to the Council expressing his concern that there appeared to be ongoing confusion about the type of information he was expecting the authority to provide, with the effect that his investigation was being unnecessarily prolonged. He explained that, in the absence of accurate information about the Council's performance it was difficult to form an accurate view about its conformity to the Code.
41. In relation to the internal review statistics provided, the Commissioner commented upon the Council's rationale for providing records as held, rather than amending them to accurately reflect the reality of the situation. The Commissioner reiterated his desire to be provided with the Council's calculation of the actual time taken in each instance of a completed review logged in its spreadsheet.
42. In relation to the Council's explanation that the spreadsheet did not reflect its current practice the Commissioner asked to be provided with up to date information about internal reviews to include details of its recording method and evidence of the time taken for reviews to be completed.
43. The Commissioner emphasised that this was an opportunity for the Council to demonstrate the improved practice it had referred to in its letters. However, if the Council declined to provide appropriate evidence, the Commissioner would assess its conformity to the Code on the basis of the information it had already provided.

Nature of non-conformity

44. The Commissioner considers that the practice of Cardiff County Council in relation to the exercise of its functions under the Act does not conform to the following provisions of the section 45 Code of Practice:

Part VI – Complaints procedure

The Recording of Complaints

45. Paragraph 43 of the Code recommends:

“Records should be kept of all complaints and of their outcome. Authorities should have procedures in place for monitoring complaints and for reviewing, and, if necessary, amending, procedures for dealing with requests for information where such action is indicated by more than occasional reversals of initial decisions.”

46. The Commissioner considers that the Council's procedures, as evidenced by the spreadsheet provided to the Commissioner, do not allow it to accurately monitor complaints and that they do not, therefore, conform to the recommendations of the Code.

Prompt Determinations

47. Paragraph 39 of the Code recommends that complaints procedures should “...encourage a prompt determination of the complaint.”
48. In the Commissioner’s opinion, a reasonable time for completing an internal review is 20 working days from the date of the request for review. In a small number of cases which involve exceptional circumstances it may be reasonable to take longer, however in no circumstances should the total time taken exceed 40 working days. The Commissioner’s view is set out in his Freedom of Information Good Practice Guidance No. 5, published in February 2007. A copy of this guidance is available at:

http://www.ico.gov.uk/upload/documents/library/freedom_of_information/detailed_specialist_guides/foi_good_practice_guidance_5.pdf
49. In view of the Council’s failure to provide accurate statistics in relation to all its internal reviews, the Commissioner is unable to conclusively comment on its overall performance. However, on the basis of the information provided he is satisfied that the Council has, in its timescales for reviews, repeatedly failed to conform to the recommendations of the code.

Action Recommended

Part VI – Complaints procedure

50. Any written reply from an applicant expressing dissatisfaction with the handling of a request should automatically trigger the internal review process. The Commissioner recommends that the Council review its procedures in this regard to ensure that the current provision for complaint handling is adequate.
51. The Council should ensure that there are procedures in place to expedite internal reviews and conduct them within the recommended timeframe of 20 working days (40 days in exceptional circumstances). If it has not already done so, the Council should consider assigning temporary resource to tackle any remaining backlog of internal reviews.
52. As the Council has readily accepted, there are a number of errors in the information relating to internal reviews supplied to the Commissioner. The Commissioner is concerned that such errors will fundamentally undermine the authority’s ability to monitor its performance in respect of internal reviews. The Commissioner therefore recommends that the authority consider its current processes for recording and extrapolating such data to ensure that the potential for error is minimised. This would assist the authority in conforming to paragraphs 42 and 43 of the Code which recommend that:

- Public authorities should publish their target times for dealing with internal reviews and information as to how successful they are in meeting those targets. When dealing with reviews, they should inform the complainant of the target date, including if necessary estimates on those occasions where the review will take longer to resolve;
 - Records should be kept of all internal reviews and their outcomes. Public authorities should review these records for repeated reversals of initial decisions and if necessary amend their request handling procedures or publication scheme.
53. The Council should refer to the resources available on the Commissioner's website (www.ico.gov.uk) or contact the ICO directly should it require any further guidance or assistance when implementing these recommendations.

Failure to conform

54. A Practice Recommendation cannot be directly enforced by the Commissioner. However, a failure to conform to a practice recommendation may lead to a failure to comply with the Act 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 under section 49 of the Act.

Other matters

55. Although they do not form part of this practice recommendation, the Commissioner wishes to highlight the following matters:
56. In November 2005 the Commissioner wrote to the Council and expressed concerns that he had received a number of complaints relating to the Council's handling of requests which identified either delays or a complete failure to respond to requests for information. The Commissioner sought assurances that the Council understood its obligations under the Act and that measures were in place to address these shortcomings.

- 57. The Council responded on 24 December 2005 and, in assuring the Commissioner that it was fully aware of its responsibilities under the Act, explained that the problems had been caused by the insufficient allocation of staff to request handling. The Council explained that this had now been fully addressed and that, going forward, it would be in a position to provide a “prompt and effective” service. The Council also explained that resources had been made available for the procurement of a tracking and monitoring system.
- 58. The Commissioner is disappointed that, despite giving these explicit assurances in 2005, the Council has, in 2009, still failed to demonstrate that it has addressed these matters.
- 59. The Commissioner has a number of concerns about the Council’s engagement with his office. The repeated delays in responding to his enquiries and repeated failure to provide adequate responses have significantly contributed to the need for this practice recommendation. He would like to make clear to the Council and to other public authorities reading this recommendation that informal resolution of compliance or conformity issues cannot be pursued indefinitely and that more formal action will be taken where there is evidence of a lack of progress, commitment, a failure to engage or any combination of these.

Dated the 15th day of December 2009

Signed.....

Gerrard Tracey
Assistant Commissioner
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF