



Information Governance Team

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**Freedom of Information Act 2000 (FOIA)
Request ID: REQ05330**

Dear Sir/Madam.

Thank you for your request for information relating to the 50m swimming pool at the Alan Higgs Centre and the Leisure Centre (Elephant) at Fairfax Street, Coventry.

You have requested the following information:

Regarding the new 50m pool at Alan Higgs Centre;

- 1. Any correspondence between CCC and Sport England regarding the £1.5m cash boost, rationale for the funding.**

Regarding the Leisure Centre (Elephant) at Fairfax Street, Coventry.

- 1. The disposal at "market value", which has already been determined by an independent Chartered Surveyor, confirm the valuation.**
- 2. Any correspondence within CCC relating to the Alternative Facilities of any of the current user groups.**

The Council's response is as follows:

Regarding the new 50m pool at Alan Higgs Centre;

1. Any correspondence between CCC and Sport England regarding the £1.5m cash boost, rationale for the funding.

Please find attached correspondence as requested. Under the Council's duty to advise and assist at section 16, you are advised that as the application was via an on line portal the direct correspondence was limited.

Some of the information in the documentation has been redacted. Section 40(2) of the FOIA states that personal data relating to third parties (i.e. a party other than the person requesting the information) is exempt information if one of the conditions in Sections 40(3A-B) or 40(4A) is satisfied.

The information you have requested includes personal information of employees of Coventry City Council and third parties. The disclosure of this information would breach one or more of the Data Protection Principles in the General Data Protection Regulation (GDPR). For example, disclosure would breach the first data protection principle. This is because it would be unfair to disclose such personal data where the staff members and others concerned have no expectation that their names would be released in the context of the information held.

The Council confirms that it holds a copy of the application form submitted in respect of your query regarding "rationale for funding". However the Council is applying a Section 14 Refusal Notice due to the burden that complying with your request will impose on the Council, as well as the impact on Council resources that will be utilised when responding to your request.

Refusal Notice – Section 14(1) of the Freedom of Information Act 2000

The right of access to information is not without exception and is subject to a number of exemptions and other provisions under the Act, including section 14(1) of the FOIA which provides:

"14. Vexatious and repeated requests

(1) Section 1(1) does not oblige a public authority to comply with a request for information if the request is vexatious."

In ICO Decision Notice FS50493150, the ICO clarified that the term vexatious is not defined in the FOIA.

The Upper Tribunal also considered the issue of vexatious requests in the case of the *Information Commissioner v Devon County Council & Dransfield* (Upper Tribunal Case No. GIA/3037/2011).

The Tribunal commented that vexatious could be defined as the 'manifestly unjustified, in appropriate or improper use of a formal procedure'. The Tribunal's definition clearly establishes that the concepts of proportionality and justification are relevant to any consideration of whether a request is vexatious.

The Council believe that the current request is vexatious because it will be burdensome to the Council, by virtue of section 14(1) of the FOIA. There is no public interest test so we have not gone on to consider the same.

The Information Commissioner's Office (ICO) has provided guidance on dealing with vexatious requests and states 'The Freedom of Information Act was designed to give individuals a greater right of access to official information with the intention of making public bodies more transparent and accountable. Whilst most people exercise this right responsibly, a few may misuse or abuse the Act by submitting requests which are intended to be annoying or disruptive or which have a disproportionate impact on a public authority.'

The ICO further recognises that 'dealing with unreasonable requests can place a strain on resources and get in the way of delivering mainstream services or answering legitimate requests'. Furthermore, these requests can also damage the reputation of the legislation itself.

ICO guidance reminds public authorities that section 14(1) is designed to protect public authorities by allowing them to refuse any requests which have the potential to cause a disproportionate or unjustified level of disruption, irritation or distress. The ICO also states the emphasis on protecting public authorities' resources from unreasonable requests was acknowledged by the Upper Tribunal when it defined the purpose of section 14 as 'section 14.....is concerned with the nature of the request and has the effect of disapplying the citizen's right under section 1(1).....the purpose of section 14.....must be to protect the resources (in the broadest sense of that word) of the public authority from being squandered on disproportionate use of FOIA.....'

To assist public authorities the ICO guidance has provided a number of indicators as typical key features of a vexatious request. These are:

- Burden on the authority
- Disproportionate effort
- Abusive or aggressive language
- Personal grudges
- Unreasonable persistence
- Unfounded accusations
- Intransigence
- Frequent or overlapping requests
- Deliberate intention to cause annoyance
- Scattergun approach
- No obvious intent to obtain information
- Futile requests
- Frivolous requests

Having reviewed your request, we have determined that the following two factors are relevant in deeming your request vexatious:

- Burden on the authority
- Disproportionate effort

Although we understand that you may believe there to be serious purpose and value behind your request, we must consider whether the impact on the Council is justified.

To provide you with the information requested would involve extensive reading and checking of the report for exemptions, (the report is over 10,000 words and includes 20 appendices, some of which are not in the public domain and also contain thousands of words). To determine what information can be discounted, as having already been reviewed, would require the creation of information by way of a spreadsheet in order to perform searches on dates, times and individuals to avoid duplication of efforts. The creation of this document alone would take an extraordinary amount of logging before any assessment of the information can begin. Further with the sheer volume of information requested there is a risk that some of it could be missed and / or personal data left unredacted, due to human error. Following a sampling exercise, it is estimated,

conservatively, that to process all of the information would take an officer at least one working week to complete.

In coming to this conclusion, we have considered the Information Commissioner's latest published guidance, 'dealing with vexatious requests (s14)', particularly taking into account the volume of information to be considered for redaction and the resulting burden to the Council in reviewing and preparing the information for possible disclosure.

We are not alleging that you deliberately made your request burdensome, or drafted it with the intent of making it otherwise overwhelming or oppressive. The Council cannot reasonably comply with its obligations under section 1(1) of the Act without incurring significant encumbrance and impact on its day-to-day activities.

Although you may be disappointed by this approach, we would stress that such protection exists within the legislation in order to ensure that applicants use their rights to seek information responsibly and public authorities are not overwhelmed by over burdensome requests.

For the reasons outlined above, we are refusing this request under section 14(1) of the Act. You have the right to appeal this decision as per the details below.

Regarding the Leisure Centre (Elephant) at Fairfax Street, Coventry.

- 1. The disposal at "market value", which has already been determined by an independent Chartered Surveyor, confirm the valuation.**

The Council has not commissioned a valuation and there has not been a market value determined by an Independent Chartered Surveyor at this stage as this will only be required in the event that the Council deems it appropriate to dispose the Property following the phased closure of the Coventry Sports and Leisure Centre. The reference to "disposal at market value" within the legal implication section of the Cabinet report dated 12th February 2019 merely sets out the legal duty the Council is under **in the event of a disposal of the Property** and confirms that a disposal at a value which has been determined by an Independent Chartered Surveyor will satisfy that duty thus ensuring that any disposal is undertaken in a legally compliant manner.

- 2. Any correspondence within CCC relating to the Alternative Facilities of any of the current user groups.**

This information is not held in an easily accessible format. The Council believes that the cost of collating the information in order to respond to your request would exceed the threshold of £450 as defined by the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004. As a result, the Council are refusing your request under section 12 of the Freedom of Information Act 2000 (please see below, Refusal Notice).

Refusal Notice – Section 12 of the Freedom of Information Act 2000

Section 12 of the Freedom of Information Act 2000 allows a public authority to refuse a request if the cost of providing the information to the applicant would exceed the 'appropriate limit' as defined by the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004:

"12 Exemption where cost of compliance exceeds appropriate limit

(1) Section 1(1) does not oblige a public authority to comply with a request for information if the authority estimates that the cost of complying with the request would exceed the appropriate limit”.

The Regulations provide that the appropriate limit to be applied to requests received by local authorities is £450 (equivalent to 2.5 days of work). In estimating the cost of complying with a request for information, an authority can only take into account any reasonable costs incurred in:

“(a) determining whether it holds the information,

(b) locating the information, or a document which may contain the information,

(c) retrieving the information, or a document which may contain the information, and

(d) extracting the information from a document containing it”.

For the purposes of the estimate the costs of performing these activities should be estimated at a rate of £25 per hour.

The information that you have requested is not held in an easily accessible format by the Council. “User groups” consist of anyone using the facilities and would span hundreds of people. The Council believes that it would take a considerable amount of time to extract and collate the information requested. A large number of officers and managers would need to check their records to determine whether they hold any information falling within the scope of your request. Taking into account the likely costs of searching the records and the number of people that would need to be involved, the Council believes that the cost of complying with your request would far exceed the appropriate limit of £450. The Council is unable to provide a more detailed cost estimate as it believes that the cost of doing so would, in itself, exceed the appropriate limit.

As a result, the Council is refusing your request under section 12 FOIA.

If you would like to discuss ways of narrowing your request to bring it within the cost threshold, please do send in your proposals.

You have the right to request an internal review of the Council’s decision to apply this exemption; details of how to do this are provided below.

The supply of information in response to a freedom of information request does not confer an automatic right to re-use the information. You can use any information supplied for the purposes of private study and non-commercial research without requiring further permission. Similarly, information supplied can also be re-used for the purposes of news reporting. An exception to this is photographs. Please contact us if you wish to use the information for any other purpose.

For information, we publish a variety of information such as: [FOI/EIR Disclosure Log](#), [Publication Scheme](#), [Facts about Coventry](#) and [Open Data](#) that you may find of useful if you are looking for information in the future.

If you are unhappy with the handling of your request, you can ask us to review our response. Requests for reviews should be submitted within 40 days of the date of receipt of our response to your original request – email: infogov@coventry.gov.uk

If you are unhappy with the outcome of our review, you can write to the Information Commissioner, who can be contacted at: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF or email casework@ico.org.uk.

Please remember to quote the reference number above in your response.

Yours sincerely

Information Governance