

Mid Devon District Council Scrutiny Committee

Responses to Public Questions asked at the Scrutiny Committee meeting held on Monday 16 December 2024.

Nick Quinn

I circulated a comments paper to Members of this Committee last week concerning this Briefing Report, I hope you all had a chance to read it.

The report contains some information that I would like to challenge.

Question 1. The table shown at paragraph 4.1 gives total numbers of requests received by the Council, but the log information in Appendix 2 shows that some requests are actually for information held by Devon County, not Mid Devon. Since the requests are not for this Council, are these requests included in, or excluded from, the total shown in the table?

Response: Included

Question 2. I notice, from the timings given in Appendix 2 for dealing with the requests, that it took eleven working days to tell some requesters that they should be contacting Devon County instead of Mid Devon. Why did this take so long?

Response: It is not always immediately clear that a request is for Devon County Council. An assessment is completed and requests can be sent to one or more departments to confirm. This is especially prevalent if there are multiple questions on a broad topic area. Therefore appropriate processing of the request is still required.

Question 3. The report at paragraph 4.3 makes comparisons with other Councils on Information Commissioner Decision Notices and outcomes – but instead of comparing with neighbouring District Councils, over the same period, Mid Devon's performance is compared to County Councils, including faraway Kent. Was this because the Officer had advanced knowledge of the Government's white paper on their plans for Local Government or was it because every other Devon District Council has had fewer Decision Notices than Mid Devon?

Response: The benchmarking was a random sample. However, the Head of Service has agreed that any benchmarking comparisons will be made with similar councils in the future.

Question 4. Members will see from Appendix 2, just how poor the information published on previous requests is. Other local Councils are already publishing full

request details (showing the full detail of each request and the information supplied). Please will this Committee ask for this Council to do the same?

Response: The current process is very manual. The additional requirements for publication will increase workloads with our current methods of recording/publication. However, the Head of Service has committed to review this within the next few months after an assessment and other project work for the team has been completed. It should be noted that the team provides functions across the council that are not limited to FOI and include Cyber Security activities.

Barry Warren

There are two recommendations at the beginning of the report.

Recommendation 1 asks that you note the report. The report does not cover all of the issues as it does not look at criticisms and recommendations from the Information Commissioner or what actions are taken or disclosed thereby running the risk of reputational damage to the Council.

Question 1. Will members of the committee decline to note the report in its present form and refer it back for a fuller and more detailed report?

Response: The report presented was a briefing report to outline the current practices of the FOI function to inform a discussion at committee.

The second recommendation does not address the issues and a once a year report will not be relevant to current experience.

Question 2. Will members please arrange for a full and detailed Scrutiny Committee review with recommendations that are set to achieve openness, honesty and transparency and certainly at a more frequent time scale?

Response: The Scrutiny committee are fully committed to the transparency of the Council. The committee discussed the comments made by the public, questioned the service manager and agreed a number of options for improving oversight of the service including quarterly reporting of the performance of the service.

Paragraph 2.4 sets out what happens when there is an ICO Decision.

Question 3. Are these meetings recorded or minuted?

Response: These meetings are not recorded or minuted as they are operational discussions.

Question 4. Are the findings of these meetings and any 'lessons learned' and 'updates in practice' brought to the attention of elected members and if so how?

Response: Currently lessons learned are not brought to the attention of elected members at committee. The committee has agreed that they will now form part of the annual report.

Paragraph 3.1 refers to the role of the Deputy Chief Executive as SIRO. Taking into account that many of the more recent issues being taken to the ICO emanate from 3 Rivers Development Limited and that officers heavy involvement with that company from the outset:

Question 5. Are the Council Policy and Procedures placing that Officer in a position to have a conflict of interest?

Response: The council does not believe that there is a conflict of interest in the Deputy Chief Executive holding the role of SIRO. Decisions on exemptions/exceptions for the disclosure of information sit with the Information Management team, and where necessary the District Solicitor or Legal team.

At paragraph 4.3 comparisons are made with the figures of much larger authorities which is not really like for like.

Question 6. Why are there not comparisons given to members in relation to adjoining District Authorities?

Response: The benchmarking was a random sample. However, the Head of Service has agreed that any benchmarking comparisons will be made with similar councils in the future.

In paragraph 6.1 it states: "*MDDC are not obliged to publish full responses/data and do not do so due to the administrative overhead.*"

Question 7. What does the 'administrative overhead' translate into in plain understandable every day member of the public language please?

Response: The current process is very manual. The additional requirements for publication will increase workloads with our current methods of recording/publication. However, the Head of Service has committed to review this within the next few months after an assessment and other project work for the team has been completed. It should be noted that the team provides functions across the council that are not limited to FOI and include Cyber Security activities.

Paul Elstone

A UK Government Guidance Document on the Freedom of Information process list out various DO's and DON'Ts.

Under DON'Ts the document says.

“Don't withhold information without clear justification. Unjustified withholding will undermine the reputation of your authority in the eyes of the public and the Information Commissioner”.

Question 1. Are this Scrutiny Committee fully aware that this Council is now routinely being taken to task by the Information Commissioner for these exact same behaviours and in increasingly strong terms?

Response: The committee is aware that there are a small number of requests that are escalated to the ICO which have been upheld. The committee discussed how best to understand these moving forward and agreed to performance indicators being provided quarterly to monitor numbers and the inclusion of Lessons Learned within the annual report.

Question 2. Are this Scrutiny Committee aware that the Scottish Information Commissioner is attributed as saying something stronger in that that in the failure to release properly due information to the public can be taken as a lack of honesty?

Response: The Scottish Information Commissioner would be making the above comments under a different legislative and regulatory framework. This council is committed to transparency, listening to our residents and where able improving our services, which we believe is evident in the discussion on this subject at Committee.

To add substance to my previous two questions it is noted that the author of the report under Section 4 Record of Performance has been extremely selective in choosing County and City Councils including Kent as a point of reference.

The final sentence says the ***“outcomes of ICO complaints are relatively uniform between Councils”.***

If the author of the report had instead used full ICO data plus a far more representative sample and where better than referencing the other six (6) District Councils in Devon, the result would have been very different.

Over the period 23/24 and 24/25 to date the six other Devon District Councils had the Information Commissioner uphold a total of seven complaints against them. Yet MDDC over the same period, had a total of 10 complaints upheld against it. This being 3 more than all the other Devon District Councils put together.

Question 3. As opposed to just noting this report will this Committee instead return it to the author so they may present an accurate position with regards to this Council's ICO complaints performance? Plus and importantly examine what really needs to be done to improve both this Council's performance and reputation?

Response: The report presented was a briefing report to outline the current practices of the FOI function to inform a discussion at committee. Subsequent discussion at the committee with the Head of Service have identified a number of actions toward improvement over the next few months.

The Council Leader in a recent and highly politicised article in the local press said that this Council was Gold Standard, this with regards to timely responses to public questions, the ICO findings show something very different. That rather than Gold Standard a Booby Prize it seems is warranted this in terms of the Freedom of Information timely and accurate responses and as the ICO complaints process reveals.

Question 4. Would the Council Leader and all Council Members plus Senior Officers like to fully reflect on the full accuracy of that article?

Response: Public questions and Freedom of Information requests are not the same. They are governed by different rules and principles.