

Freedom of Information – Response – 27319

I am writing to request information under the Freedom of Information Act 2000 in relation to the County Council's proposal to seek a judicial review of the Government's Local Reorganisation decision for Suffolk.

Please provide the following information:

- 1. Copies of any written advice, reports, briefings, memoranda, presentations, emails, notes, or recommendations provided by council officers or officials to councillors or the council leadership regarding:
 - whether the Council should seek judicial review proceedings of the Government's Local Government Reorganisation decision;
 - the legal merits of any proposed judicial review;
 - the financial implications or risks associated with such action; and
 - the likely impact on local government reorganisation proposals.*
- 2. Copies of any legal advice obtained externally or internally relating to the judicial review, including advice from counsel, solicitors, or legal officers.*

Section 42 – Legal Professional Privilege:

Suffolk County Council (SCC) is withholding the requested information under section 42 of the Freedom of Information Act 2000 (FOIA) Legal Professional Privilege.

Section 42 provides an exemption from disclosing information that is subject to Legal Professional Privilege (LPP). LPP protects confidential communications between a client and their legal adviser. The Information Commissioners Office (ICO) states that this is a 'fundamental requirement of the legal system, ensuring that a client can speak freely and frankly with their legal adviser in order to obtain appropriate legal advice.

The exemption covers:

- Advice privilege: confidential communications between a client and their legal adviser for the purpose of seeking or giving legal advice; and
- Litigation privilege: communications created for the dominant purpose of litigation.

In this case the information we are withholding consists of legal advice and related communications concerning SCC's proposal to seek a judicial review which falls within the definition of confidential legal advice exchanged between the Council and its legal advisers, attracting legal professional privilege.

Whilst there is no requirement to demonstrate prejudice or harm in order to engage s.42 it is a qualified exemption meaning that SCC must consider the public interest test to determine whether the interest in maintaining the exemption outweighs the interest in disclosure.

Factors in favour of disclosure:

- Further understanding of, and participation in the debate of issues of the day

- Facilitate the accountability and transparency of public authorities for decisions taken by them

Factors in favour of withholding:

- Disclosure of correspondence between a client department and their legal adviser would undermine the principle of English law that a client should be able to seek and receive legal advice from their legal adviser in confidence.
- Such confidentiality promotes respect for the rule of law by encouraging the client to seek legal advice and allowing for full and frank exchanges between clients and their legal advisers. This would be undermined should the information be released.
- This confidentiality would extend to discussions around whether or not information should be released in response to a freedom of information request.
- Releasing the information would negatively impact on the fairness and integrity of any potential or ongoing legal proceedings.

Having considered the competing factors SCC has determined that releasing this information would not be in the public interest. Therefore, it is withheld under s.42 of the Freedom of Information Act 2000.

3. Minutes, notes, records, or summaries of meetings where the judicial review proposal was discussed between officers and councillors.

4. Copies of any equality impact assessments, risk assessments, governance assessments, or financial assessments prepared in relation to the proposal.

No recorded information held.

5. Details of the total expenditure incurred or budget allocated in relation to the judicial review process to date, including legal fees and consultancy costs.

£3,900.00 [£780.00 VAT]

£4,680.00 in total