

From: freedomofinformation@kent.gov.uk
Subject: RE: Information request (ref: 23787341)
Date: 3 September 2021 at 11:09
To: hugh@craddocks.co.uk
Cc: kcc.information@email.icasework.com



Information request
Our reference: 23787341

Dear Mr Craddock

Information requested by: Mr Hugh Craddock

Further to your correspondence below I have been tasked with carrying out an independent review of the Council's response to your original request for information; this is in accordance with your rights under the Environmental Information Regulations and was progressed to Internal Review stage to reflect the fact that you were not happy with KCC's initial response. I appreciate that you had not formally requested an Internal Review and am happy for you to further request this if you remain unhappy following this response.

Having examined this case, I would agree that the response that was issued to you was lacking the necessary explanation as to why the format you requested was not honoured. In this case, it is indeed considered that the information you have requested is already available and accessible to you in another format, thus, I can confirm that KCC's response was made based on Regulation 6.1 of the EIR, as you had concluded:

'Where an applicant requests that the information be made available in a particular form or format, a public authority shall make it so available, unless

—

- (a) it is reasonable for it to make the information available in another form or format; or**
- (b) the information is already publicly available and easily accessible to the applicant in another form or format.'**

However as indicated above, I agree that the response issued to you did not make this clear enough and was not made in accordance with the regulations as outlined in Regulation 6.2 -

(2) If the information is not made available in the form or format requested, the public authority shall— (a) explain the reason for its decision as soon as possible and no later than 20 working days after the date of receipt of the request for the information; (b) provide the explanation in writing if the applicant so requests; and (c) inform the applicant of the provisions of regulation 11 and of the enforcement and appeal provisions of the Act applied by regulation 18.

In this case, as stated above, the decision was taken because the information is already publicly available direct from the Kent History and Library Centre in a format that reduces bandwidth pressures on KCC's network, as the maps are very large. Whilst access does need to be organised by contacting the Centre direct, the information is not being withheld and was already available to you outside of the provisions of the EIR.

Sometimes it is difficult to balance the way that we respond to a request, as in this case a formal 'refusal' type notice could have looked officious and unhelpful when the intention was to provide you with information as to how you can efficiently access what you seek direct from experts in the Kent History and Library Centre. However, I have discussed this matter with the relevant colleagues and we have ensured that KCC has learned from the experience and that responses going forward will be more complete.

I therefore confirm that I uphold your complaint in relation to the way your response was handled. I trust that this explanation is satisfactory. However, if you are still unhappy, you can appeal to the Information Commissioner, who oversees compliance with access to information legislation including the Freedom of Information Act 2000, Environmental Information Regulations 2004, Data Protection Act 2018 & General Data Protection Regulation. Details of what you need to do, should you wish to, pursue this course of action, are available from the Information Commissioner's website <https://ico.org.uk/make-a-complaint/>, or you can phone the ICO Helpline on 0303 123 1113.

Yours sincerely

Hannah Rumball | Information Governance Specialist | Information Resilience & Transparency Team | Kent County Council | Room 2.87, Sessions House, Maidstone, ME14 1XQ | [Access to Information](#) | Please see our [Information Rights Privacy Notice](#) for details of how we process your personal data in line with our data protection obligations |

From: Hugh Craddock <hugh@craddocks.co.uk>
Sent: 31 August 2021 21:10
To: Kent County Council <kcc.information@email.icasework.com>
Subject: Re: Information request (ref: 23787341)

Dear Ms Redford

Thank you for your letter of today's date.

It seems to me that the council's reply is not in accordance with the 2004 Regulations. The reply appears to be a refusal to provide the information. However, the reply does not explain the refusal, as is required, in accordance with the requirements of the 2004 Regulations.

I am minded to conclude that the refusal relies on r.6(1): that:

'Where an applicant requests that the information be made available in a particular form or format, a public authority shall make it so available, unless—

(a) it is reasonable for it to make the information available in another form or format; or

(b) the information is already publicly available and easily accessible to the applicant in another form or format.'

Does the council agree please? If so, the council's response must comply with r.6(2). For the avoidance of doubt, I do request that the explanation required by r.6(2)(b) be given in writing.

If, on the other hand, the council considers that it is refusing to supply the information, its response should comply with r.14.

Either way, I do not consider that it would be appropriate to request an internal review until the council has properly communicated the nature of its refusal in accordance with the 2004 Regulations, so that I may then (if necessary) make an informed request for an internal review.

regards

Hugh Craddock

On 31 Aug 2021, at 08:27, Kent County Council
<kcc.information@email.icasework.com> wrote:

Information request

Our reference: 23787341

Dear Mr Craddock

Thank you for your request for information received on 10 August 2021.

Please find attached our response to your request.

Yours sincerely

Mollie Redford
Information Access Officer