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16 August 2018  
Your reference:  
Our reference: IG 00490

Dear Mr Smith

## - RESPONSE TO INTERNAL REVIEW

I am writing in response to your request for an internal review relating to the above request that was received on 02 August 2018.

Your original request to the council was received on 30 May 2018 and asked for information about a footpath creation order. The council responded to your request on 10 July 2018.

Following your request for an internal review, I have considered the Council's decision not to disclose Dan Barton's draft report submitted to the Chief Executive dated on or just before 26 February 2018.

### **Background:**

The Council relied on Environmental Information Regulations 2004, regulation 12(4)(d) (material in the course of completion, unfinished documents or incomplete data.) You were advised that the report submitted to the Chief Executive was in draft form and was not complete at that time.

As regulation 12(4)(d) EIR is subject to the public interest test, the Council went on to consider the public interest factors in favour of disclosure and the public interest factors in favour of maintaining the exception. You were informed the Council considered that the public interest arguments in favour of disclosure were outweighed by the public interest arguments in favour of maintaining the exception.

### **Review:**

In undertaking this review I have considered the documentation submitted to the Chief Executive by Dan Barton; discussed his understanding of the status of the report he submitted to the Chief Executive; discussed the case with the Information Governance Team; and considered regulation 12 (4)(d).

In submitting the report to the Chief Executive, Dan Barton made very clear the document was a draft; and therefore unfinished. Dan Barton has also verbally confirmed to me the report was not final at that stage and there was an expectation that amendments to the draft report would be made. I am satisfied the draft report meets the test for an unfinished document in accordance with regulation 12(4)(d).

I have also considered how the Council has applied the public interest test. The Council has stated it maintained the exception as there was the need for the officers involved to engage with each other in a "safe space". In this particular case, Dan Barton was providing a report for a specific purpose and it was important to have that safe space to assess whether or not the draft had achieved that purpose.

Also the Council considers that disclosing drafts in this case would mean that those producing similar reports will be less frank and candid when preparing reports in the future. The substantive issue is still prominent in the local community and the ability of officers to have frank discussions on that issue (and future issues) would be adversely affected by the disclosure of this (and future) draft reports.

Moreover, given the prominence of the issue in the local community, there is a real risk that the release of an unfinished document could mislead public debate. The Council's position is made clear in the final

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report, which has been produced as a consequence of the draft report and frank, candid discussions between officers.

Having considered the unfinished document and the above facts, I am satisfied the release of this unfinished document would not be in the public interest.

**Conclusion:**

Having considered the matter I find the Council correctly relied on regulation 12(4)(d)

If you are not satisfied with the council's internal review you have the right to appeal to the Information Commissioner (contact details provided below):

First Contact Team  
Information Commissioners Office  
Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF  
Telephone: 0303 123 1113  
E-mail: [casework@ico.org.uk](mailto:casework@ico.org.uk)

Yours sincerely

Helen Blake  
Senior Manager Policy and Scrutiny