

15 October 2018



**CAMBRIDGESHIRE  
& PETERBOROUGH**  
COMBINED AUTHORITY

**FOI Ref: CA25: Freedom of Information Act 2000 – Refusal Notice – Section 42 - Legal Professional Privilege**

I refer to your request for information dated 24<sup>th</sup> September 2018 and am now in a position to respond to your request.

**Question:**

Please reveal the legal advice given to the Mayor for the departure of the CEO of the Combined Authority announcing his departure to me. I prefer an answer by electronic means.

**Answer:**

Your request has been considered and is refused. In accordance with the Freedom of Information Act 2000 (the Act), this letter acts as a Refusal Notice.

Exemption Applied

The Council does hold information, however, we believe that it is exempt from disclosure under section 42 of the Freedom of Information Act 2000 (information covered by legal professional privilege). For the avoidance of doubt, the Authority is not prepared to waive privilege.

Section 42 of the Freedom of Information Act 2000 (the Act) states:

- (1) Information in respect of which a claim to legal professional privilege... could be maintained in legal proceedings is exempt information.
- (2) The duty to confirm or deny does not arise if, or to the extent that, compliance with section 1(1)(a) would involve the disclosure of any information (whether or not already recorded) in respect of which such a claim could be maintained in legal proceedings.

Legal professional privilege (LPP) is not defined in the Act or in any other legislation. It is a common law concept shaped by the courts over time. It is designed to provide confidentiality between legal advisers and their clients to ensure openness between them and safeguard access to fully informed, realistic and frank legal advice. This in turn ensures that justice is fairly administered. Legal professional privilege belongs to the client, and material cannot be revealed without the consent of the client, not even to a court.

A professional legal adviser for the purposes of LPP could be a solicitor, barrister, licensed conveyancer or legal executive holding professional qualifications recognised by the Institute of Legal Executives (ILEX). It makes no difference whether the legal adviser is an external lawyer or a professional in-house lawyer.

In this case, the LPP is legal advice privilege. Legal advice privilege covers confidential communications between the client and a lawyer made for the dominant purpose of seeking or giving legal advice. In the current instance, the information that you have requested constitutes confidential legal advice given by our professional legal advisers. We are, therefore, satisfied that the exemption applies.

The exemption is, however, subject to the public interest test. The Combined Authority has considered whether the public interest in maintaining this exemption is outweighed by the public interest in disclosure.

This Council has considered the following reasons in favour of disclosure: The assumption in favour of disclosure and the rationale behind the assumption, i.e. accountability, transparency, furthering public debate etc.

Balanced against this are the following reasons against disclosure: The concept of legal professional privilege and the rationale behind the concept which is to ensure frankness between lawyer and client which goes to serve the wider administration of justice.

On balance the Combined Authority considers that the public interest in maintaining the exemption outweighs the public interest in disclosure.

If you are unhappy with the service you have received in relation to your request and wish to make a complaint or request a review, you should write to us via our contact us email address – [contactus@cambridgeshirepeterborough-ca.gov.uk](mailto:contactus@cambridgeshirepeterborough-ca.gov.uk) or write a letter to Complaints, Cambridgeshire and Peterborough Combined Authority, 1<sup>st</sup> Floor, Incubator 2, Alconbury Weald Enterprise Campus, Alconbury Weald, Huntingdon, PE28 4WX within 40 days of the date of this e-mail.

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF, or via their website: <https://ico.org.uk/>

Generally, the ICO will not undertake a review or make a decision on a request until the internal review process has been completed.

Yours sincerely



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The Cambridgeshire and Peterborough Combined Authority can be contacted via Unit 3, The Incubator, Alconbury Weald Enterprise Campus, Alconbury Weald, Huntingdon, PE28 4WX.  
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