



Freedom of Information Act 2000 (Section 50)

Decision Notice

Dated 10 April 2006

Public Authority: Corby Borough Council

**Address: Grosvenor House
George St
Corby
Northamptonshire
NN17 1QB**

Summary Decision and Action Required

The Commissioner's decision in this matter is that the Public Authority has not dealt with the Complainant's request in accordance with Part I of the Act in that it has failed to comply with its obligations under section 1(1).

The Council failed to comply with its obligations under section 1(1) of the Act in that they withheld information without a valid reason.

As the information originally withheld without valid reason has now been provided to the Complainant, no further action is required by the Council.

1. Freedom of Information Act 2000 (the 'Act') – Applications for a Decision and the Duty of the Commissioner

1.1 The Information Commissioner (the 'Commissioner') has received an application for a decision whether, in any specified respect, the Complainant's request for information made to the Public Authority has been dealt with in accordance with the requirements of Part I of the Freedom of Information Act 2000 (the 'Act').

1.2 Where a complainant has made an application for a decision, unless:

- a complainant has failed to exhaust a local complaints procedure, or
- the application is frivolous or vexatious, or
- the application has been subject to undue delay, or
- the application has been withdrawn or abandoned,

the Commissioner is under a duty to make a decision.

1.3 The Commissioner shall either notify the complainant that he has not made a decision (and his grounds for not doing so) or shall serve a notice of his decision on both the complainant and the public authority.

2. The Complaint

2.1 The complainant has advised that on 1st January 2005 the following information was requested from the Public Authority in accordance with section 1 of the Act (please note "LGO" is the Local Government Ombudsman).

2.2 "Date of letter from LGO

Grade of employee i.e. ordinary, supervisor, manager, director or department.

Was anyone suspended on receipt of the initial letter?

On receipt of letter did CBC investigate other matters at the same time?

Date of conclusion of matter with LGO

Did LGO find against (A) Employee
(B) Department
(C) CBC

Did LGO criticize: (A) Employee
(B) Department
(C) CBC

Was any compensation ordered to be paid by LGO because of actions of
(A) Employee
(B) Department
(C) CBC

How much compensation was paid?

Did CBC have the proper policies / procedures in place at the time of the complaint?"

3. Relevant Statutory Obligations under the Act

Section 1(1) provides that –

"Any person making a request for information to a public authority is entitled –

- (a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and
- (b) if that is the case, to have that information communicated to him."

Section 10(1) provides that –

"Subject to subsections (2) and (3), a public authority must comply with section

1(1) promptly and in any event not later than the twentieth working day following the date of receipt.”

4. Review of the case

4.1 The Complainant contacted the Information Commissioner to raise the issue of the response to his information request. The Council had refused to provide any information in response to the request and the Complainant was dissatisfied with information being withheld on the following grounds cited by the Council:

- The information requested was not in the “public domain”.
- The Council believed that the information requested would be used by the Complainant in a personal injury claim.

4.2 The Council also stated that information was withheld on the grounds that it would involve the disclosure of personal data relating to third parties. This aspect of this complaint is not covered in this Decision Notice.

4.3 The Complainant also made a further information request to the Council on 2nd March 2005. This is not dealt with in this Decision Notice.

4.4 The Council were contacted by the Commissioner on 2nd August 2005 and asked to provide information about the steps that they had taken to comply with the complainant’s information request. The Council failed to respond. The Commissioner issued an Information Notice on 2nd November 2005 that required the Council to respond within 30 days. The Council failed to keep to this 30 days deadline. Following contact from the Legal Department advising the Council that they risked being found in contempt of court for their failure to comply with the Information Notice, the Council responded.

4.5 The response of the Council confirmed that its initial response to the Complainant’s information request had been reconsidered and that information was no longer being withheld on the grounds that it was not in the public domain, or on the grounds that the Council believed that the Complainant may use this information in support of a personal injury claim.

The Commissioner confirmed with the Complainant that the Council had provided information to him as the Council had stated.

5. The Commissioner’s Decision

The Commissioner’s decision in this matter is that the Public Authority has not dealt with the Complainant’s request in accordance with the following requirements of Part I of the Act:

Section 1(1) – That information is not in the “public domain” and that information may be used in support of prospective future legal proceedings are not valid grounds for withholding information. The Council therefore failed to comply with section 1(1) in that it failed to communicate to the Complainant such of the information specified in his request as did not fall within any of the absolute exemptions from the right of access nor within any of the qualified exemptions under which the consideration of the public interest in

accordance with section 2 would authorize the Public Authority to refuse access.

6. Action Required

The required information has now been supplied to the Complainant and the Council have been given advice as to how they should respond to future information requests in accordance with the requirements of the Act. The Council are therefore not required to take any further action in connection with this specific matter.

7. Right of Appeal

7.1 Either party has the right to appeal against this Decision Notice to the Information Tribunal (the "Tribunal"). Information about the appeals process may be obtained from:

Information Tribunal
Arnhem House Support Centre
PO Box 6987
Leicester
LE1 6ZX

Tel: 0845 600 0877
Fax: 0116 249 4253
Email: informationtribunal@dca.gsi.gov.uk

7.2 Any Notice of Appeal should be served on the Tribunal within 28 days of the date on which this Decision Notice is served.

Dated the 10th day of April 2006

Signed

**Phil Boyd
Assistant Commissioner**

**Information Commissioner
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF**