

Freedom of Information Act 2000 (Section 50)

Decision Notice

Dated 21 March 2006

Public Authority: City of Bradford Metropolitan District Council

**Address: City Hall
Centenary Square
Bradford
BD1 1HY**

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, section 10 and section 16.

The information has since been provided and an internal review completed. Consequently, no remedial action will be required by the Public Authority.

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- the application has been withdrawn or abandoned,**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 submitted a request to the City of Bradford Metropolitan District Council (the Council) on 10th January 2005 for information held by West Yorkshire Casualty Reduction Partnership (WYCRP), of which the Council is a party, in accordance with section 1 of the Act:

- 2.2 "...detailed information about speed cameras on the A65. In particular:

- (i) What were the individual, detailed criteria used to justify the installation of each of the individual cameras?

- (ii) What was the cost of installation of each individual camera?

- (iii) Why has the camera closest to the junction with Carr Lane and New York Lane been removed?

- (iv) What was the cost of removing the camera closest to the junction with Carr Lane and New York Lane?"

- 2.3 On 31st January 2005 the Complainant resubmitted his request, because he had not received a response.
- 2.4 On 28th March 2005 the Complainant submitted his request again, this time to the email address promoted on the website of WYCRP, because he had not received a response from the Council.
- 2.5 On 31st March 2005, the Council responded to the Complainant's request and provided some of the information requested.
- 2.6 On 31st March 2005 the Complainant wrote to the Council because he did not believe the information that had been sent to him provided sufficient detail. He did not receive a response.
- 2.7 On 4th May 2005 the Complainant wrote to the Council a second time, stating that he had not received an adequate response to his initial

request for information.

- 2.8 On 5th May 2005 the officer at the Council summarized the information that had been given and stated that the request had been answered.
- 2.9 On 11th July 2005 the Complainant requested details of the internal complaints procedure.
- 2.10 On 12th July 2005 the officer at the Council provided details of how to contact the Information Commissioner.
- 2.11 On 12th July 2005 the Complainant asked the Council to confirm that it did not have an internal complaints procedure.
- 2.12 On 12th July 2005 the officer at the Council stated:

“as you have neither outlined the basis of your complaint, nor described the ‘detailed information’ you say you requested, we are unable to advise on which internal procedure, if any, would be most appropriate. Accordingly, our suggestion is that you take your complaint to the Information Commissioner, who will be better able to advise you”.

- 2.13 On 21st July 2005 the Complainant made a final request for details of the internal review procedure.
- 2.14 On 23rd July 2005, having not received a response, the Complainant appealed to the Information Commissioner.

3. Relevant Statutory Obligations under the Act

- 3.1 **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”

3.2 **Section 10(1)** provides that –

“...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”.

3.3 **Section 16(1)** provides that –

“It shall be the duty of a public authority to provide advice and assistance, so far as it would be reasonable to expect the authority to do so, to persons who propose to make, or have made, requests for information to it”

4. Review of the case

4.1 WYCRP are a partnership of the five metropolitan district councils of Bradford, Calderdale, Kirklees, Leeds and Wakefield, West Yorkshire Police, West Yorkshire Health Authority, West Yorkshire Magistrates' Court Service and the Highways Authority. WYCRP is thus not itself a public authority for the purposes of the Act.

The Commissioner has used WYCRP as an intermediary in the investigative process. The initial request was made to the City of Bradford Metropolitan District Council and therefore the obligation to comply with the requirements of the Act remains with it, regardless of the fact the information is held on the Council's behalf by a third party, in this case by WYCRP.

The Complainant sought the Commissioner's assistance in this matter because he believed the public authority had failed to provide him with the specific and detailed information he had requested.

In response to (i) the Complainant was referred to a website. The internal review recognised that the Complainant should have been informed that the information would not be provided by the Council as it was exempt under section 21 of the Act (Information accessible to the applicant by other means). The Council acknowledged that it could have provided further information as to where this information was held.

In response to (ii) and (iii) the internal review reiterated the information provided in response to the initial request.

In response to (iv) the Complainant was initially told that the answer to this question had been “contained within the previously – described camera installation costs”. The internal review acknowledged that the information could not be provided because it was not held separately and that the Complainant should have been informed of this in definitive terms at the time his request was answered.

Following the outcome of the internal review procedure, the Council clarified the information it had previously provided. Further, it explained that some of the information requested was not held by the authority.

Following this clarification, the Complainant is satisfied that the information requested, which WYCRP held on behalf of the Council, had been provided to him.

The Council failed to state categorically whether or not the information was held and therefore the Commissioner is satisfied that section 1(1)(a) of the Act was breached.

- 4.2 The Complainant requested that the Commissioner review the failure of the Council to provide a response within the statutory time frame.

The initial request for information was first made on 10th January 2005. However a response was not received until 31st March 2005.

On this basis the Commissioner is satisfied that the statutory time limit was breached.

- 4.3 Further, the Complainant asked the Commissioner to review the alleged failure to provide advice and assistance.

The Complainant asked to be provided with details of the public authority’s internal complaints procedure. The section 45 Code of Practice, issued by the Department for Constitutional Affairs states:

“Any written reply from the applicant ... expressing dissatisfaction with an authority’s response to a request for information should be treated as a complaint” [paragraph 38].

Whilst public authorities can provide advice and assistance in ways not outlined by the Code of Practice, compliance with the Code is likely to demonstrate compliance with the requirement to provide advice and assistance. The Council failed to follow the guidance detailed in

paragraph 38 of the Code of Practice. Consequently, adequate advice and assistance was not provided.

5. The Commissioner's Decision

- 5.1 The Commissioner's decision in this matter is that the Council has not dealt with the Complainant's request in accordance with the following requirements of Part I of the Act:

Section 1(1)(a) - in that it failed to specify categorically what information was held by the authority, although the Commissioner recognises that the public authority provided all the information it did hold.

Section 10(1) - in that it exceeded the statutory time limit for responding to a request made under section 1(1).

Section 16 - in that it failed to offer the Complainant advice and assistance when details of a complaints procedure were requested.

6. Action Required

- 6.1 The information has now been provided and an internal review completed. Therefore no remedial action will be required by the Public Authority.

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 21st day of March 2006

Signed

**Phil Boyd
Assistant Commissioner**

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