

Freedom of Information Act 2000 (Section 50)

Decision Notice

Date 13 March 2007

Public Authority: Cambridgeshire County Council
Address: Shire Hall
Castle Hill
Cambridgeshire
CB3 0AP

Summary

The complainant submitted a request to the public authority for information relating to a long-running planning dispute. The public authority explained that the complainant had been given unrestricted access to the records it held about his complaint and he had been provided with copies of all eligible information. The complainant was not satisfied with the information that had been disclosed as it did not contain notes of the reasons for the conclusions reached by the public authority in respect of his complaint. Having considered the information available the Commissioner is satisfied that the outstanding information specifically requested by the complainant is not held by the public authority as recorded information.

The Commissioner's Role

1. The Commissioner's duty is to decide whether a request for information made to a public authority has been dealt with in accordance with the requirements of Part 1 of the Freedom of Information Act 2000 (the "Act"). This Notice sets out his decision.

The Request

2. On 16 December 2005 the complainant requested the following information from the public authority in accordance with section 1 of the Act:
"The notes of conclusions of those who purported to look into this matter in April and May 2004 and copies of documents that have been sent to me in the past which give the reasons found by others".

3. The matter referred to by the complainant was a long-running planning dispute he had with the public authority. In a letter dated 28 May 2004 the public authority advised the complainant that having reconsidered documentation relevant to the case it had reached the same conclusions and did not believe that it would serve any purpose to go into details of these conclusions as to do so would be "*repetitive of reasons given to you by others*". The complainant felt that this statement indicated that the author of the letter must have been in possession of the reasons found by others when she wrote the letter, otherwise she would not have been able to agree with their conclusions.
4. The complainant sent an email to the public authority on 21 December 2005 to find out when he could expect a response to his request. The complainant subsequently wrote to the Commissioner on 29 December 2005 to advise that he had not received a reply from the public authority.
5. The Commissioner wrote to complainant on 9 May 2006 to establish whether he had heard from the public authority regarding his request. The complainant confirmed that he had still not received a response.

The Investigation

Scope of the case

6. The complainant contacted the Commissioner to complain about the way his request for information had been handled. The complainant specifically asked the Commissioner to consider the failure of the public authority to provide a file note of the reasons for the conclusions reached by the author of the letter dated 28 May 2004, and the reasons found by others, when considering his complaint.

Chronology

7. The Commissioner wrote to the public authority on 15 May 2006 in relation to a number of requests that had been submitted by the complainant. With respect to the request of 16 December 2005, the Commissioner asked that the public authority confirm that it had received this request and provide an update on the current status of the request.
8. The public authority responded to the Commissioner on 21 June 2006. It confirmed that the request was received on 16 December 2005 but was unfortunately overlooked, possibly due to the volume of correspondence that had been received from the complainant. The public authority also explained that it had not received a complaint from the complainant about its failure to respond to this request.

9. The public authority advised the Commissioner that it had provided the complainant with unrestricted access to all the records held about him and his complaint on 18 January 2005. The complainant was given the opportunity to identify any documents he wanted copies of at that time. Since then the complainant had made further applications for information contained in these same records.
10. The public authority advised that it would be formally reviewing the latest application to determine whether to provide the information or to class the request as a 'repeated request' under section 14(2) of the Act.
11. Having conducted a review the public authority advised the complainant in a letter dated 19 July 2006 that although the request of 16 December 2005 was a repeated request it would provide a copy of all files it held in respect of his complaint from October 2000 to January 2005 (the complainant had already been provided with information since January 2005). This consisted of over 900 pages of information.
12. The complainant wrote to the Commissioner on 2 August 2006 to explain that the response he had received from the Council contained no trace of a file note of reasons for the conclusions reached by the author of the letter dated 28 May 2004 or the reasons found by others. The complainant suggested that this meant the information either does not exist or has not been disclosed.
13. In a further letter to the Commissioner dated 18 September 2006, the public authority confirmed that the complainant had been provided with all information held about his planning complaint since 1969, with the exception of five items withheld under the legal professional privilege exemption outlined in Schedule 7(10) of the Data Protection Act 1998. The application of this exemption by the public authority is currently being considered by the Commissioner's Data Protection Casework and Advice Division. However, these items would not be disclosable under the Freedom of Information Act in any event, being personal data of which the applicant is the data subject and therefore exempt under section 40(1), an absolute exemption.

Analysis

Procedural matters

14. The Commissioner has considered whether the information requested by the complainant is held by the public authority as recorded information.
15. The public authority has assured the Commissioner that it does not hold a note of the conclusions reached by the author of the letter dated

28 May 2004. The public authority has explained that the complainant has been provided with access to and copies of all the information that it holds relating to his planning complaint, with the exception of the information withheld under the legal professional privilege exemption outlined in Schedule 7(10) of the Data Protection Act 1998.

16. The Commissioner is of the view that the reasons for any decisions made by the public authority in respect of the complainant's planning complaint will be contained in the 900 pages of information already disclosed. There is no evidence to suggest that the author of the letter dated 28 May 2004 made a separate note of her conclusions when reviewing the complaint file in April/May 2004.
17. In view of the above, the Commissioner is of the opinion that the public authority has complied with section 1(1) of the Act. Section 1(1) of the Act 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.”*

The Decision

18. The Commissioner's decision is that the public authority dealt with the request for information in accordance with the Act.

Steps Required

19. The Commissioner requires no steps to be taken.

Other matters

20. Although they do not form part of this Decision Notice the Commissioner wishes to highlight the following matter of concern:

The Commissioner took the view that by failing to respond to the complainant's request of 21 December 2005 within the statutory period of time the public authority had failed to comply with section 10(1) of the Act. Since the public authority was in the process of dealing with the request the Commissioner did not consider that issuing a decision notice relating to this breakdown in its procedures would be in the

public interest at that time. The Commissioner did, however, write to the public authority to remind it of its obligations under section 10(1) of the Act.

Right of Appeal

21. Either party has the right to appeal against this Decision Notice to the Information 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

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

Dated the 13th day of March 2007

Signed

**Graham Smith
Deputy Commissioner
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF**