ico. Information Commissioner's Office

Freedom of Information Act 2000 (Section 50)

Decision Notice

Date: 28 September 2010

Public Authority: Her Majesty's Revenue and Customs ('HMRC')
Address: 100 Parliament Street
London
SW1A 2BQ

Summary

The complainant made a number of requests to Her Majesty's Revenue and Customs (the "public authority") about the number of winding up orders sought and the amount of money that had been written off in respect of professional sports clubs. He asked the Commissioner to consider one case concerning the statistics for professional football clubs over five calendar years.

The public authority explained that the work required to obtain this information would exceed the costs limits and it was excluded from its obligations to provide the information by virtue of section 12(1).

The Commissioner has carefully investigated this case and has determined that the public authority was entitled to rely on section 12(1) in this case. He has also considered the advice and assistance that was required and has concluded that the public authority could have further assisted the complainant in submitting a refined request that could be met under the costs limit and therefore failed to comply with its obligations under section 16(1).

The Commissioner requires no remedial steps to be taken.

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.

Background

2. The Enterprise Act 2002 changed the public authority's status in the case of insolvency. Prior to the introduction of this Act the public authority had "preferred creditor" status. This meant that it was amongst the creditors paid out first (and, subject to sufficient funds, in full) if companies went into administration and entered into Company Voluntary Arrangements. After the introduction of the Enterprise Act, it became an unsecured creditor. This meant that HMRC would not receive its money first and would be required to take a share alongside all other unsecured creditors. This prejudiced the public authority's position because should 75% of the creditors (ascertained by proportion of money owed) vote to accept a small proportion of what was due then this is what the public authority would receive.

3. From this time, there is publicity that the public authority has issued a number of winding up orders on professional football clubs who fail to pay outstanding tax due. There has been controversy about the number of such petitions and the money that HMRC has not been paid. There is further controversy that debts owed to football creditors (such as players and other clubs) must be paid first (and in full) under the Football Association's Rules otherwise the football club would forfeit its league status. This leads to less money being available to the unsecured creditors that now includes the public authority. The purpose of this request was to obtain the annual figures in order to understand the amount of money that HMRC had not received.

The Requests

Request one

4. On 28 January 2010 the complainant requested that he was provided with the following information:

   '(1) Please supply the amount of revenue written off by HM Government to each football club in the Premier League & Football League (including those since relegated from the Football League) for each year since 1990. For each year/club,

please break these figures down between tax (i.e.: VAT, Corporation Tax, NI, Business Rates, govt grants, etc)

(2) Please provide the same figures for clubs in the ECB County Championship & Cricket Scotland National League since 1990.

(3) Please provide the same figures for clubs in the National Leagues of the Welsh, English and Scottish Rugby Unions since 1990. (As well as any regional teams established since then)

(4) How many investigations have HMRC launched against FL clubs each year since 1990?

(5) What is HRMCs current estimate of the annual tax receipts lost to HM Govt through tax avoidance measures at FL/PL clubs? (for example through the payment of players through image rights)'

5. On 22 February 2010 the public authority explained that it held some relevant information for this request. However, it explained that the wide ranging scope of the request meant that it could not provide it within the costs limit. It explained that this amounted to 24 hours work or £600 and as this limit was exceeded it was not required to process this request. It also stated that if the complainant considerably narrowed his request so that it was under the costs limit, then it would process it as a new request. It confirmed that it did not hold consistent records to enable it to identify data by reference to trade or occupation. Finally, it explained that should the information be possible to link to identifiable legal persons then it would be unable to provide it due to confidentiality.

6. On 1 March 2010 the complainant requested an internal review in respect of this request. The public authority conducted a single internal review and its results are specified in paragraph 11 below.

Request two

7. On 1 March 2010 the complainant requested that he was now provided with the following information:

'(1) How many petitions has HMRC applied for to the courts in respect of the 72 English League football clubs in each of the last five years?

> *(2) What was the total tax revenue being sought for these businesses and how much of this has been written off, in each of the last five years?'*

He also specified the names of the football clubs that he knew to have entered administration over the time period and explained that he would be happy for the clubs to be placed in year groups should that be required to preserve confidentiality.

8. On 19 March 2010 the public authority issued its response. It explained that it recognised that this was a refined request, but that section 12(1) still applied to it as it would cost over £600 to answer it. This was because it would be necessary for the public authority firstly to search out the specific limited companies who owned the football clubs. It would then be required to acquire information from many parts of the department and that it does not hold a list that could answer the request.

9. It also said that in the event that section 12(1) did not apply to it, there would be issues about confidentiality too. This was because it believed that even giving the number of winding up petitions would provide tax payer confidential information. The disclosure of this information would be a breach of its duty of confidentiality specified in section 18(1) of Commissioners for Revenue and Customs Act (CRCA) 2005 and this would be a criminal offence. It did not explain that this would allow it to apply section 44(1) [statutory provisions], although this was implied. It also explained that there was another way to find basic information about winding up petitions by using a computer in the High Court. This would cost £5 for 3 names, but would not provide information about the revenue sought.

10. On 19 March 2010 the complainant requested an internal review. He explained that he found it 'quite amazing' that the public authority did not know how much taxpayers lost as a result of 'failed football clubs' and that he believed that the information could be released without compromising confidentiality.

11. On 29 March 2010 the public authority communicated the results of its internal review in relation to both requests. It said that the first request asked for a huge amount of information and that it upheld its position. In respect of the second request, it explained that it recognised that this was a high profile issue, but that this does not alter whether or not HMRC holds the requested information. It stated that it treated a football club in the same way as any other business and that it did not keep information by trade sector concerned. It said it had no business need to bring the information together in one place

because it dealt with every failure to pay on a case by case basis. It also concluded that it was of the view that it was highly likely that the costs limit was applied properly and that even a substantially narrower request for information would not be possible to process due to it amounting to a breach of its statutory duty of confidentiality. It then provided the Commissioner's details for a further right of appeal.

The Investigation

Scope of the case

12. On 9 April 2010 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 following points:

- That the public authority has failed to release figures on the loss to taxpayers from professional football clubs;
- In light of the unique position of the sport in this country and what in effect amounts to a public subsidy, his belief that there is a strong public interest in the release of this information; and
- That he disputes that it would cost in excess of £600 to locate the information requested.

13. On 14 June 2010 the complainant agreed to limit his complaint to the second request as outlined above. He also confirmed that he was prepared to further limit the case to only the second part of that request, should it be possible to provide only that information within the costs limit. The Commissioner will consider whether the request could be limited in the analysis section of the Notice.

14. The complainant also raised other issues that are not addressed in this Notice because they are not requirements of Part 1 of the Act. The Commissioner notes that the complainant said that the public authority should be required to request the information from the relevant football authorities in order to answer the request. The Act imposes no obligations on a public authority to generate new information through contacting third parties and therefore this issue will not be considered further in this Notice.

Chronology

15. On 26 May 2010 the Commissioner wrote to the complainant and the public authority to confirm that he had received an eligible complaint. He asked for the public authority to explain its position.

16. On 14 June 2010 the Commissioner spoke to the complainant on the telephone. He discussed the scope of the case, that there was no requirement to ask third parties to answer information requests and how Parliamentary questions were answered. He followed this call with an email which outlined the scope that had been agreed. The complainant emailed the Commissioner to confirm the scope on the same day.

17. On 15 June 2010 the Commissioner made detailed enquiries of the public authority. He also updated the complainant.

18. On 8 July 2010 the public authority provided the Commissioner with a response to his enquiries. The Commissioner considered the response and communicated his preliminary verdict to the complainant. He asked whether given this verdict, the complainant wanted this case to continue to a Decision Notice.

19. On 13 July 2010 the complainant confirmed to the Commissioner that he wished for this case to continue to a Decision Notice.

20. On 28 July 2010 the Commissioner called the public authority to ask one further question. He received a considered response on 29 July 2010.

Analysis

Exclusion

Section 12(1)

21. Section 12(1) provides a costs threshold for the Act. As long as the public authority can prove that its estimate of the work required to answer a request for information is reasonable and exceeds the statutory limit, then it is not required to provide any information in respect of the request.

22. The Information Tribunal in *Quinn v Information Commissioner & Home Office* [EA/2006/0010] explained this point in this way:

'The fact that the rules drafted pursuant to s.12 have the effect of defining what is a reasonable search and the amount of time and money that a public authority are expected to expend in order to fulfil their obligations under the Act, serves as a guillotine which prevents the burden on the public authority from becoming too onerous under the Act.'

(Paragraph 50)

23. The public authority has consistently stated that its position is that the work required to process this request would exceed the costs limit. It does not doubt that it would hold the information but it is unable to locate it without exceeding the costs threshold.

24. The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 (the "Regulations") provide that the cost limit for central government public authorities is £600. This must be calculated at the rate of £25 per hour, providing an effective time limit of 24 hours. If a public authority estimates that complying with a request would exceed 24 hours, or £600, section 12(1) provides that the request may be refused.

25. Section 12(1) is not qualified, so it has no public interest component that can be considered. This means the costs limit can be relied upon irrespective of whether the public interest would have favoured the disclosure of the information.

26. The Commissioner must determine whether he believes that the estimate provided by the public authority was reasonable. The issue of what constitutes a reasonable estimate was considered in the Tribunal case *Alasdair Roberts v the Information Commissioner* [EA/2008/0050] and the Commissioner endorses the following points made by the Tribunal at paragraphs 9 -13 of the decision:

- "Only an estimate is required" (i.e. not a precise calculation);
- The costs estimate must be reasonable and only based on those activities described in Regulation 4(3);
- Time spent considering exemptions or redactions cannot be taken into account;
- The determination of a reasonable estimate can only be considered on a case-by-case basis; and
- Any estimate should be "sensible, realistic and supported by cogent evidence."

27. The above extract references Regulation 4(3), which states that the only activities that are allowed to be considered are those where it is:

"(a) determining whether it holds the information,

(b) locating the information, or a document which may contain the information,

(c) retrieving the information, or a document which may contain the information, and

(d) extracting the information from a document containing it."

28. The public authority has provided the Commissioner with a detailed and reasoned estimate about why it believed that the processing of this particular request would exceed the costs limit.

29. It has explained that it does not hold the information about either the number of winding up petitions or the amount 'written off' for any given business area (and this includes football clubs). The only way to acquire this information would be to:

    (1) Work out who were the relevant companies that were in charge of all 72 of the professional football clubs for the whole five year period (as ownership may vary); and

    (2) Find out its reference number for those companies and then look manually through the individual files.

30. The Commissioner will therefore outline the public authority's estimates about the activities that would need to be undertaken for each stage.

Stage one

31. The public authority explained that stage one was a difficult process. It would have real difficulty identifying the companies in charge of each individual football club. This was for a multitude of reasons including:

    (i) The public authority does not hold a list of the companies that own or owned football clubs;

    (ii) Due to promotion and relegation, different clubs were within the 72 asked about for different years (indeed there would be around 85 relevant clubs);

    (iii) The name of the company is unlikely to correspond with the name of the football club; and

(iv) The ownership of football clubs was unlikely to be consistent and more than one company would need to be located for those clubs despite the trading name remaining the same.

32. The public authority said in its view there was no requirement for it to acquire the linking information (the names of the football clubs and/or the corresponding company names) from the public domain in order to narrow its search. The Commissioner has considered these comments and has come to the conclusion that the public authority is correct about this matter. This is because he considers that the Act provides a right of access to recorded information that is held by public authorities. Similarly the fees regulations envisage the retrieval of recorded information from the records of the public authority and not from other sources. Where a "building block" required to provide information is not held by a public authority he therefore considers that there is no obligation upon that public authority to obtain that "building block" information from elsewhere.

33. The public authority explained that it would have difficulty even identifying the 72 football clubs for the five years from its own records. It did not hold information about which clubs were in the relevant divisions in the required time period.

34. Furthermore, even if it knew this information, it would not help it know which companies owned the football clubs. The only way for it to be able to do this would be to check every single company file it holds. It is the case that often more than one company may own a football club over the time period and in these cases it would require careful analysis. The Commissioner accepts that knowing the name of the football club does not mean that one can immediately find the name of the company that owns it. Some football clubs are owned by companies that contain the club's name, but others are not. There is a real diversity of ownership of football clubs in England and Wales.

35. The Commissioner has been satisfied that the only way the public authority would be able to identify the football clubs was if:

(i) It used the list that the complainant provided (although the list is not necessarily complete; as it focuses only on the clubs the complainant knows to have entered administration); or

(ii) The public authority checked through all its manual files and found this information.

36. The Commissioner has been satisfied that the only way that the public authority would be able to identify the companies that owned the football clubs was if:

    (i) The complainant provided a list of them[1]; or

    (ii) The public authority checked through all its manual files and found this information.

37. The Commissioner asked the public authority to tell him approximately how many company files it held that would need to be checked. He was informed that there were files for at least 940,000 recorded companies.

38. The Commissioner believes that a reasonable absolute minimum estimate to check each file to see whether it related to a relevant football club is one minute. The Commissioner appreciates that once it had found all the information it could conclude its search, but it is possible that it would only find the information after considering the very last file. The Commissioner believes that the purpose of section 12(1) is to prevent the possibility of a disproportionate level of search and that it is reasonable in these circumstances to adjudicate on the basis of a reasonable estimate of the worst case scenario.

39. Therefore the minimum work that would be required to do stage one was: 940,000 x 1 minute = c. **15,666 hours**.

40. The public authority also explained that this may not be the end of the search. Depending on the content of the 940,000 company files, it may also have to go on to look through their PAYE files (there are approximately 1.4 million employers whose file would need to be checked) and VAT files (there are 1,942,000 registered VAT traders). The Commissioner does not believe he needs to consider these files in this case as the estimate is already so far beyond the costs limits.

41. The Commissioner has considered the potential argument that for a considerable number of the companies it would be clear as soon as the name is seen that they would not own a football club. For example, X Window Cleaners Ltd or Y Car Valets Ltd. However, the Commissioner is content that there would still be a very large number of companies that could not be dismissed in this way and would require more detailed consideration.

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[1] It is not required to acquire information from third parties in order to answer a request as there is no requirement under the Act to do so. It is only required to use information that it holds to identify relevant recorded information.

42. He has been satisfied therefore that the work required to do this stage alone would exceed the costs limits of 24 hours and therefore section 12(1) would be applied appropriately only considering stage one. However, for completeness, the Commissioner has also gone on to consider the second stage.

Stage two

43. The work in stage two would be required even if the complainant had provided a list of the relevant football clubs and the names of the companies who had owned them over the relevant period.

44. The public authority explained that the following work would be required in order for it to obtain the information that was requested about winding up petitions when in possession of the company names and numbers:

1. It would need to use its tracing systems to find its Head of Duty reference numbers. It has shown that this process would take an average of 10 minutes by club:

   10 minutes x 85 clubs = c. **14 hours**.

2. It would then need to check its IDMS system to look at money owed through PAYE/NIC. There are likely to be twelve entries per company per year. It has shown that this process is likely to take at least one minute per entry:

   1 minute x [12 entries x 85 clubs x 5 years] = c. **85 hours.**

3. It would then need to check the VAT records that are not on IDMS. There would be likely to be one record for one year. It has shown that this process would take at least one minute per entry:

   1 minute x [5 years x 85 clubs] = c. **7 hours**.

45. It explained that the total reasonable estimate of the time required (assuming they know the companies, which they do not) would therefore be at least:

    85 + 7 + 14 hours = c. **106 hours**.

46. This is in excess of the 24 hour limit and why it believes that section 12(1) has been correctly applied in this instance.

47. It also explained that further work would be required to then work out how much money has been written off for each of the companies in respect to winding up petitions. The Commissioner has not considered this issue further because the fees limit has been clearly exceeded in this case already.

48. It also explained that it may write off tax for other reasons than winding up petitions and that this would clearly add time, cost and complexity. The Commissioner accepts that this is so.

Are these estimates reasonable?

49. The Commissioner's analysis concerning the reasonableness of the estimate will have three parts. The first part will be to determine whether the public authority was correct to aggregate the two parts of the request while making its estimate. The second part will be to see if there are any reasonable alternatives to the processes outlined above. The final part will discuss the estimate provided in this case and whether it was reasonable and related to the activities that are allowed to be included.

1. Can the two parts of the request be aggregated together in this case?

50. When considering whether requests can be aggregated or need to be considered individually the Commissioner is guided by Regulation 5 of the Statutory Instrument 2004 No. 3244 "The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004" which states that:

> *'**5.** - (1) In circumstances in which this regulation applies, where two or more requests for information to which section 1(1) of the 2000 Act would, apart from the appropriate limit, to any extent apply, are made to a public authority -*
>
> *(a) by one person, or*
>
> *(b) by different persons who appear to the public authority to be acting in concert or in pursuance of a campaign,*
>
> *the estimated cost of complying with any of the requests is to be taken to be the total costs which may be taken into account by the authority, under regulation 4, of complying with all of them.*
>
> *(2) This regulation applies in circumstances in which-*

> *(a) the two or more requests referred to in paragraph (1) relate, to any extent, to the same or similar information, and*
>
> *(b) those requests are received by the public authority within any period of sixty consecutive working days.'*

51. In order to aggregate the requests for the purposes of section 12 the Commissioner must determine whether they relate to any extent, to the same or similar information. The interpretation of this part of the Fees Regulations has been considered by the Information Tribunal in *Ian Fitzsimmons v Department for Culture, Media and Sport* [EA/2007/0124]. The Tribunal made the following general observation at paragraph 43:

> "The test in Regulation 5 of the Fees Regulations seems to us to be very wide; the requests need only relate **to any extent** to the same or **similar** information [Tribunal emphasis]".

52. The Commissioner has considered the two parts of the request in this case. He has concluded that they are similar to an extent as they all relate to information about the public authority's scrutiny and management of the tax position of professional football clubs. The Commissioner must then consider the time element of the test. In this case there was just a single piece of correspondence and therefore there is no doubt that it was received on the same day.

53. The Commissioner considers that the test is satisfied and the time taken to answer both parts of the request can be correctly added together in this instance.

2. Were there reasonable alternatives in this case?

54. In the *Alasdair Roberts* case, the complainant offered a number of suggestions as to how the requested information could be extracted from a database. The Tribunal concluded that none of the ways suggested would have brought the request under the costs limit. However the Tribunal also made the following more general comments on alternative methods of extraction:

> *"(a)…the complainant set the test at too high a level in requiring the public authority to consider all reasonable methods of extracting data;*

(b) that circumstances might exist where a failure to consider a less expensive method would have the effect of preventing a public authority from relying on its estimate…" (para 15).

55. Those circumstances were set out at paragraph 13 where it was said:

"…it is only if an alternative exists that is so obvious to consider that disregarding it renders the estimate unreasonable that it might be open to attack. And in those circumstances it would not matter whether the public authority already knew of the alternative or had it drawn to its attention by the requestor or any other third party…"

56. In order to ensure that it was reasonable to base its estimate on checking through each and every company file the Commissioner has asked detailed questions about how the information is held.

57. The complainant has argued that it is absurd that the public authority would not know how much football clubs are costing the tax payer. He noted that there is considerable media attention about the football clubs for the reasons mentioned in paragraph 2 and 3 of this Notice. He explained that he expected that this information would be held centrally. However, he did not provide any specific evidence that proved that this was so.

58. The public authority explained to the Commissioner that it has no business purpose to hold the information independently in one place. It explained that its systems were designed to collect tax from a business that owes it and that this is done on a case by case basis. It explained that it treats defaulting football clubs in the same way as any other company that fails to pay what is due and that its case management programme would not allow it to identify the companies that own football clubs from all the other companies.

59. In response to the Commissioner's enquiries, the public authority also confirmed that:

1. It holds no separate record of the winding up petitions it has launched against football clubs;

2. It cannot access this information through its electronic casework management system;

3. There is no specific service area that deals with defaulting football clubs;

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4. There is no specialist within its legal department that deals with this sort of case and the search cannot be narrowed this way;

5. Its press department may be able to locate press releases about the trading name (to assist the identifying of the football club companies), but this record would not be necessarily be comprehensive and would not avoid the work required in either stage above; and

6. Experienced members of staff cannot think of any other possible reasonable alternatives in this case.

60. From this information, the Commissioner has been satisfied that there are no reasonable alternatives outside checking all the company files for stage one and individually going through the files for stage two. He therefore has concluded that he is satisfied that the activities that the public authority have identified would need to be done to generate the relevant recorded information that would answer this request for information.

3. Is the estimate submitted only for the relevant activities, reasonable and in excess of the costs limit?

61. The Commissioner has carefully considered the activities that have been identified in paragraphs 37 to 39 and 44. He is satisfied that all these activities relate to activities covered by subsection (b) and (c) of Regulation 4(3). All the activities can therefore be included in the estimate.

62. He has also checked the time estimates attributed to each of the activities. He has been satisfied that those times are reasonable in this case. In this case the cost limit is exceeded by many times and in his view it would not be possible to improve the time taken to a sufficient extent by expertise and repetition.

63. It follows that the estimate provided by the public authority can be then determined from adding the components together:

15,666 hours + 106 hours = **15,772 hours.**

64. Even taking into account the argument set out at paragraph 41 to this notice, the Commissioner accepts a reasonable estimate of the work required to process this request would be in excess of the threshold of 24 hours. He is therefore satisfied that the costs limits would be exceeded in this case and that the estimate is 'sensible, realistic and

supported by cogent evidence'. He is therefore content that section 12(1) has been applied correctly by the public authority.

Procedural Requirements

Section 16(1)

65. Section 16(1) (full copy in the legal annex) provides an obligation for a public authority to provide advice and assistance to a person making a request, so far as it would be reasonable to do so. Section 16(2) states that a public authority is to be taken to have complied with its section 16 duty in any particular case if it has conformed with the provisions in the Section 45 Code of Practice in relation to the provision of advice and assistance in that case.

66. Whenever the cost limit has been applied correctly, the Commissioner must consider whether it would be possible for the public authority to provide advice and assistance to enable the complainant to submit a new information request without attracting the costs limit in accordance with paragraph 14 of the Code.

67. The Commissioner has considered the complainant's comments about actively considering whether part two of the request could be answered within the costs limit. He is satisfied that the same work would need to be undertaken to answer the second part of the request as it would to answer the whole request. This means that there it would not have been appropriate for the public authority to suggest to the complainant that the request should be refined and resubmitted to only cover the second part of the request.

68. The public authority explained that it had offered some advice and assistance in this case. It explained that it had tried to detail why it believed that the request would exceed the costs limits and also that from the evolution of the request it believed the complainant would not be interested in the very small sample it may be possible to provide within the costs limit.

69. The public authority also explained that it had referred the complainant to the computer at the High Court, where he could check company names to see if there were winding up petitions against them.

70. The public authority told the Commissioner that it felt that it might be able to provide six months of data within the costs limit, providing the complainant provided it with the relevant company names. However, it explained that it would be a distinct possibility that no winding up

petitions would have been issued in that period and that the complainant would have wasted his time and money finding out the company names.

71. The Commissioner has also spoken to the complainant to find out whether there was a possibility of narrowing down the request. The complainant explained that he would have preferred the twelve years of data from his wider original request, but was prepared to accept for the Commissioner to look at the five year request because it was more likely to fall within the costs limit.

72. The Commissioner, having considered the circumstances of this case, accepts that the public authority offered some reasonable advice and assistance in that it advised the complainant to check the High Court computers and use the information obtained from that source to assist him in submitting a new request. It also advised the complainant that its records were not sorted by reference to trade sector. In the Commissioner's view, however, the public authority failed to provide the complainant with a clear indication of what information could be provided within the costs limit. In his view the public authority should have advised the complainant that it might (subject to the application of any exemptions) be able to provide six months of data within the costs limit, providing the complainant provided it with the relevant company names, albeit that there it would be a distinct possibility that no winding up petitions would have been issued in the chosen period. He has therefore found that the public authority has breached section 16(1) of the Act in this instance.

The Decision

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

- It applied section 12(1) correctly as the work that would be required to process this request would have exceeded the costs limit; and

74. However, he has also found that the public authority did not deal with the request for information in accordance with the Act in that:

- It failed to provide reasonable advice and assistance in breach of its obligations under in section 16(1).

Steps Required

75. The Commissioner requires no steps to be taken.

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Right of Appeal

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76. Either party has the right to appeal against this Decision Notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

    First-tier Tribunal (Information Rights)
    GRC & GRP Tribunals,
    PO Box 9300,
    Arnhem House,
    31, Waterloo Way,
    LEICESTER,
    LE1 8DJ

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

    If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.

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

Dated the 28th day of September 2010

Signed ……………………………………………………

Lisa Adshead
Group Manager
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Water Lane
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Cheshire
SK9 5AF

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Legal Annex

The Freedom of Information Act 2000

Section 1 - General right of access to information held by public authorities

(1) 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.

(2) Subsection (1) has effect subject to the following provisions of this section and to the provisions of sections 2, 9, 12 and 14.

(3) Where a public authority—

(a) reasonably requires further information in order to identify and locate the information requested, and

(b) has informed the applicant of that requirement,

the authority is not obliged to comply with subsection (1) unless it is supplied with that further information.

...

Section 12 – Exemption where cost for compliance exceeds the appropriate limit

(1) Section 1(1) does not oblige a public authority to comply with a request for information if the authority estimates that the cost of complying with the request would exceed the appropriate limit.

(2) Subsection (1) does not exempt the public authority from its obligation to comply with paragraph (a) of section 1(1) unless the estimated cost of complying with that paragraph alone would exceed the appropriate limit.

(3) In subsections (1) and (2) "the appropriate limit" means such amount as may be prescribed, and different amounts may be prescribed in relation to different cases.

(4) The Secretary of State may by regulations provide that, in such circumstances as may be prescribed, where two or more requests for information are made to a public authority—

(a) by one person, or

(b) by different persons who appear to the public authority to be acting in concert or in pursuance of a campaign,

the estimated cost of complying with any of the requests is to be taken to be the estimated total cost of complying with all of them.

(5) The Secretary of State may by regulations make provision for the purposes of this section as to the costs to be estimated and as to the manner in which they are to be estimated.

Section 16 – Duty to provide advice and assistance

(1) 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.

(2) Any public authority which, in relation to the provision of advice or assistance in any case, conforms with the code of practice under section 45 is to be taken to comply with the duty imposed by subsection (1) in relation to that case.