

Freedom of Information Act 2000 (Section 50)

Decision Notice

Date: 09 September 2009

Public Authority: Leicester City Council
Address: New Walk Centre
Welford Place
Leicester
East Midlands
LE1 6ZG

Summary

The complainant made a request for a large amount of pay and grading information in a specified format. The public authority asserted that it did not hold some of the information and that section 21(1) [information already reasonable accessible to applicant by others means] applied to the information that it did hold. It also said that to provide the information in the requested format would be a section 12(1) [the fees limit] issue. It reaffirmed its position in its internal review. The Commissioner has considered the public authority's application of section 12(1) and is satisfied that it could be applied correctly by the Council to the whole request. He did not go on to consider the application of sections 14(2), 21(1), 36(2), 40(2) or 43(1). He has however found a breach of section 16(1) as he does not believe that the Council provided all the advice and assistance that could be reasonably expected of it when processing the request originally, breaches of sections 10(1) and 17(5) with regard to not issuing a notice which applied section 12(1) within the statutory timescales and section 1(1)(a) for incorrectly denying that it held relevant recorded information. The Commissioner requires that the public authority contacts the complainant and discusses how it can narrow the request in order for it to comply with section 16(1).

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 Job Evaluation process was a project which resulted from a national agreement between the national employers' side for local government and representatives of the recognised local government trade unions and as such all local government bodies will have to complete this project within the next few years. Each Council however undertakes its own job evaluation exercise and develops its own new grading structure.
3. The complainant is representing a trade union in an issue that affects around 17,000 employees of the public authority. The public authority has attempted to implement a Single Status Agreement as a result of its Job Evaluation process. This was to be a comprehensive pay and grading review of all posts.
4. The first attempt at implementing a Single Status Agreement had been abandoned prior to the request being made. The second attempt at implementing a Single Status Agreement was yet to begin. The information was requested by the complainant in order to directly compare what would be paid before and what could have been paid after the implementation of the Single Status Agreement for all posts. The Commissioner has determined that the complainant wanted to compare the current information (on the date of request 14 October 2008) against the information it considered during its first attempt at implementing the process and the findings below are based on this determination (for the requests at paragraph 7 below numbered 1-6).
5. The reference to 'job evaluation points' (in the request below numbered 5) is the assessment of job value which establishes where in the pay structure the individual post falls. This is different information to that requested in request no.6, which is for the money that that person will receive.
6. In relation to the reading of the word 'posts' within the request, the Commissioner appreciates that there is a difference between the number of posts, and the number of employees, and this difference is relevant to the request. In particular there is a difficulty in that people who have the same job title can have different salaries and different levels of salary protection, and this is crucial when considering the request. The Commissioner has discussed this issue with the complainant and he has confirmed that he regards posts with the same title but different salaries (and/or salary protection) constitute different posts and he has progressed this case on that understanding. The complainant has also indicated that he is interested in posts which are not filled, and they should be included. So the definition of 'posts' in this case comprises of every individual position that has been filled by the Council and every post that has been advertised but not been filled by the Council. For clarity the Commissioner has decided this case on the complainant's definition of 'posts'. The public authority's arguments are also assessed on that basis.

The Request

7 On 14 October 2008 the complainant made a request for information in accordance with section 1 of the Act. He asked for the following recorded information:

'I would request that the Council provides UNISON with pay and grading information for each post. For each post, we would request the following information:

1. *The current pay grade/scale for that post*
2. *The approximate gender split of the staff occupying those posts.*
3. *Details of any bonus scheme and/or allowances that are applicable to that post. Please ensure that you provide full details of how those bonuses/allowances are calculated.*
4. *The annual leave entitlement for that post*
5. *As a Single Status job evaluation exercise has been carried out, the job evaluation points should be identified for each post.*
6. *As the Council has previously proposed a new pay and grading structure, then the proposed pay and grading grade should be supplied for each post.*
7. *Details of all staff employed by the Council, who are currently receiving salary protection of any form. For each post receiving salary protection, please identify the gender, the post title, the substantive grade for the post, the protected grade for the post and precise details of the nature of that protection (e.g. is the protection time limited, how long has the protection gone on for, are increments/annual pay awards payable).*

He indicated that he felt that the task of collecting the above data appears and may be extensive but stated that he believed the Council should have assembled all of this in order to undertake and implement the Single Status reviews. Therefore he did not think that section 12(1) would apply in this case.

In order to minimise costs he also requested that this information be supplied electronically and emailed to [complainant's email address] as Excel or Word documents.

He also specifically requested the following:

8. *The post titles of all posts in former manual grades 1 – 6 or craft workers are employed on.*

9. *Details of any bonus payments or allowances that are made posts in manual grades 1 – 6 or craft workers paid since April 2005. Please supply details of how each bonus payment or allowance is calculated, the justification for paying the bonus and to which occupational groups it applies.*

Finally he requested that if the public authority believed that the request exceeded the £450 FOI limit then please would they consider the request for items 8 and 9 above as *individual* FOI requests for each of the individual former manual grades 1 – 6, i.e. there is one FOI request for former manual grade 1; one FOI request for former manual grade 2 etc.

- 8 On 17 October 2008 the public authority provided the complainant with a response to his request for information. It informed the complainant that the first phase of the Single Status Agreement programme had been scrapped and its replacement had not yet been decided on and therefore it did not hold the information for points 1 -7. It also said that the Act was not the correct route to acquire information when it is claimed that access is required by law. Instead the right route for Union information would have been to have applied to the Service Director – Business Improvement. It said that it did not feel that the process should be subverted by the Act and applied section 21(1). It did not respond to items 8 and 9.
- 9 On 1 December 2008 the complainant requested an internal review into the handling of his Freedom of Information request.
10. On 5 December 2008 the public authority responded to the request for an internal review. It stated that the public authority had already provided the Union with all the information about the first attempt at implementing the Single Status Agreement programme that it held and that the information had not changed since that time. It said it would provide the information to the Union as part of the collective bargaining when it was generated as part of the second attempt at implementing the programme when it was running. It said that it was applying section 14(2) to the request where the Union was asking for the information that was the same as information already provided, and where it was not, it said that it did not hold this information.
11. The Council also informed the complainant that it had to treat the request as one made by the public and his special circumstances could not be taken into account. It said that it felt that section 40(2) would have applied to much of the information previously released to the Union, as it would be the personal data of third party individuals and its release to the public would contravene the first data protection principle since it would be both unfair and unlawful to the data subjects. It also said that it reserved its right to apply further exemptions. Finally it discussed the issue about the reformatting of the previous information that it provided and expressed the view that it did not believe that it was obliged to reprocess the information in the way stated. It said that it believed in any event that it would be unable to do so within the costs limit and that it was applying section 12(1) to this request. It did not address items 8 and 9 separately.

The Investigation

Scope of the case

12. On 19 January 2009 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:
 - Whether the public authority had applied section 21(1) correctly in this case. In particular he believed that the information he wanted was different to the information already provided to the Union.
 - Whether the public authority could provide the information he requested in the format that he wanted it.
 - His belief that the public authority misread his request as he asked for the present pay and grading information alongside the information about the Single Status Agreement, while the Council have only been addressing his request for the information about that Agreement.
13. Whilst the complainant has raised issues about section 21 and re-formatting, the Commissioner has first considered section 12, which if found to be upheld, would mean that these other issues would not need to be considered.
14. During the course of the Commissioner's investigation the following matters were resolved informally and therefore these are not addressed in this Notice:
 - The information that the Council held for point 8 of the request dated 14 October 2008 was provided on 13 August 2009.
15. The complainant also raised other issues that are not addressed in this Notice because they are not requirements of Part 1 of the Act. These issues include the information that was and should have been made available to the Trade Union as part of the collective bargaining process. He also cannot comment on the formatting of the information provided in that context.

Chronology

16. On 28 January 2009 the Commissioner wrote to the public authority to ask for the withheld information. On 20 February 2009 the public authority provided the Commissioner with its detailed opening submissions about its position in relation to all 9 requests and supplied him with the withheld information. This was the information that it had already supplied to the Union, which it felt was therefore exempt by virtue of section 21.
17. On 21 April 2009 the Commissioner contacted the public authority by telephone and enquired about its application of section 21 in this case. He asked to whom it had provided the previous information, and for it to clarify what it had provided for parts 3 and 8 of the request.

18. Also on 21 April 2009 the Commissioner called the complainant to enquire about the information he had received already and the formatting issues. The complainant explained to the Commissioner that he would be satisfied if the following five items were provided for every post on a single spreadsheet:
 1. *Name of Post.*
 2. *The job evaluation score for that post.*
 3. *Gender of holder of post.*
 4. *Salary of post.*
 5. *Any additional payments (including both bonuses and allowances).*
19. On 22 April 2009 the Commissioner wrote to the public authority and asked if it was prepared to look for an informal resolution. He suggested this might be possible if it provided the information that it had sent to Unison again, alongside an explanation of why it did not hold the outstanding information in relation to the first attempt at implementing the Single Status Framework. On 12 May 2009 it informed the Commissioner it was not prepared to do so. However it did provide further arguments about sections 12(1) and 21(1).
20. On 26 May 2009 the Commissioner submitted a set of questions in order to investigate the application of the exemptions, and asked for either the Council to answer them or to inform him if they would reconsider the informal resolution suggested above. On 29 May 2009 the public authority told the Commissioner that it was now prepared to try the informal resolution. Between 29 May 2009 and 16 June 2009 the Commissioner exchanged emails with the complainant to see if the informal resolution was acceptable to him. It turned out that it was not.
21. On 17 June 2009 the Commissioner resubmitted the above questions. He focussed particularly on the application of sections 12(1) and 21(1). On 22 July 2009 he received a detailed response to all of his questions. The Council also updated the Commissioner on its position in relation to all the requests and applied extra exemptions sections 36(2) and 43(1) to requests 6 and 7. It also provided the Commissioner with the correspondence about the advice and assistance that it had provided in this case. Finally it offered to provide information to the complainant to informally resolve part 8, as it could provide this information within the costs limit and had misread the request in its earlier correspondence with the Commissioner.
22. On 23 June 2009 the Commissioner invited the public authority to provide the information for part 8 to the complainant.
23. On 31 July 2009 the public authority confirmed on the telephone that its new position was that section 12(1) also could be applied to the processing of the whole request on an aggregated basis. It spoke to the Commissioner about this position again on both 10 August 2009 and 11 August 2009.
24. On 13 August 2009 the public authority provided the information for part 8 alongside a full list of all the current posts in the Council to the complainant. On

25 August 2009 the Commissioner clarified one further issue with the complainant.

Analysis

Substantive Procedural Matters

25. The Commissioner has considered the public authority's belief that it did not hold the recorded information requested by the complainant and believes that was erroneous. For failing to confirm that it held the information that was relevant to the request within twenty working days the public authority breached sections 1(1)(a) and 10(1).
26. The Commissioner has also considered the public authority's belief that the information it provided to the trade union was the information requested by the complainant. The Commissioner believes that the complainant has requested different information to that provided to the Union in this instance.

Section 12(1)

27. Section 1(1)(b) requires a public authority to provide the relevant information, unless it can rely on a relevant exclusion or exemption. In this case the public authority has relied on section 12(1) in indicating that it is not obliged to supply the information to the complainant. This states that if the authority estimates that the cost of complying with the request would exceed the appropriate limit it is not obliged to provide the information to the complainant.
28. The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 (the "Regulations") provide that the cost limit for non central government public authorities is £450. This must be calculated at the rate of £25 per hour, providing an effective time limit of 18 hours. If a public authority estimates that complying with a request would exceed 18 hours, or £450, section 12(1) provides that the request may be refused.
29. The Commissioner's investigation into the application of section 12(1) has three parts. The first part was to consider whether the requests should be aggregated or considered individually for the purposes of section 12(1). The second part was to consider whether it was reasonable for the public authority to base its estimate on obtaining information from its personnel records. If it was, then the third part was to consider whether the estimate about section 12(1) was reasonable and therefore whether the exclusion was correctly applied.

Should the requests be aggregated or considered individually for the purposes of section 12(1)?

30. 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.'

31. In order to aggregate the requests for the purposes of section 12(1) 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].

32. The Commissioner has considered the nine parts of the request in this case. He has concluded that they are similar to some extent as they all relate to information about pay and grading associated with the potential implementation of the Single Framework Agreement. The complainant wants the information in spreadsheet format so that all entries for every individual are provided together. This adds to the evidence that all the parts of the request are connected and are similar in nature. The complainant's statement within the request that all requests should be considered separately and that if the costs limit applies even the individual parts should be split up does not alter the fact that the Council was correct to aggregate the costs in this case.
33. The Commissioner has therefore determined that the public authority is able to aggregate the costs to all nine parts of the request in this case.

Was it reasonable for the public authority to base its estimate on obtaining the information manually from its electronic HR system?

34. The complainant has argued that the costs limit would not have been engaged in this case, because the public authority must already hold the relevant information in a suitable form, as it must have been used in order for it to consider the implementation of the Single Framework Agreement. Alternatively he argued that the information could have been generated using a report function from its payroll system. The Commissioner therefore has considered whether it was reasonable to rely on acquiring the information manually from its electronic HR system in this instance.
35. When considering this issue the Commissioner has received guidance from the Tribunal in the case *Alasdair Roberts v. Information Commissioner* (EA/2008/0042). In this case, the complainant offered a number of suggestions as to how the requested information could be extracted from the database. The Tribunal concluded that none of the ways suggested would have brought the request under the costs limit. However at paragraph 15, 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... “.*
36. 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...”*
37. The Commissioner has therefore considered whether there is an alternative that exists that is so obvious to consider that it renders the estimate unreasonable in this case.
38. The Commissioner first checked what information was held by the Council when it was considering the first phase of the Single Status Agreement. The public authority informed him that it was all the information that it had previously released to the Union and nothing more. It provided a copy of this information to the Commissioner. The information contains some relevant information about the Single Status Agreement but not about the present salaries and bonuses etc and was not held in the format requested by the complainant. The Commissioner is satisfied that this information does not contain everything that was requested and therefore it was not possible to provide all the information from that source. Therefore this was not an obvious alternative in this case.

39. Next the Commissioner checked what electronic systems the public authority had and whether a report could be written to generate the information requested in this case within the costs limit. The public authority informed the Commissioner that it has an integrated HR and payroll system called 'Resourcelink'. It has a report writing facility called 'Business Objects'. The Council informed the Commissioner that the nature of the request for information meant that a standard report would not generate the information requested by the complainant. Instead a specialist report would need to be commissioned. The particularly complex part of the report would be to determine the bonuses and salary protection levels of every member of staff. This would require 300 fields to be analysed. The Commissioner is satisfied that the electronic systems are not therefore an obvious alternative in this case.
40. The Commissioner also enquired whether any further recorded information that could provide the requested information was held. He was informed that it was not. The Commissioner is therefore satisfied that it was reasonable in this case to rely on an estimate based on checking manually through the electronic records. This is because there is no obvious alternative in this case.

Was the estimate reasonable in this case and was section 12(1) therefore applied correctly?

41. The public authority has provided detailed estimates about why it is unable to provide the information requested. In particular it estimated that providing the relevant information for parts 3, 4, 6, 7 and 9 alone would all exceed the costs limit in this case. It is therefore its position that providing the information for all the parts of the request together would also exceed the cost limit.
42. The issue of what constitutes a reasonable estimate was also considered in the case of *Alasdair Roberts*, 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.
 - Estimates cannot take into account the costs relating to data validation or communication
 - 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"*
43. The activities referred to in Regulation 4(3) are:

"(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.”

44. The Commissioner will consider the public authority's estimates for each part individually (for 3, 4, 7 and 9) in order to assess the reasonableness of the estimate that processing the request would total over £450, taking into account only the above activities.

Part 3

45. The public authority informed the Commissioner that to obtain the information about which present staff received bonuses and allowances and how they have been calculated would be a significant piece of work, and on its own would exceed the costs limit.
46. It said that to do so it would be required to check approximately 17000 records and for each record analyse 300 or more elements that make up their pay on 'Resourcelink'.
47. Taking into account only the activities allowed in Regulation 4(3) it estimated that this would take about 15 minutes per record.
48. It therefore provided the following estimate:
- 15 minutes x 17000 records = 4250 hours.
49. The Commissioner is satisfied that 15 minutes is a reasonable estimate for one record. Therefore he believes that the public authority would have been required to exceed the fees limit by a significant margin in order to provide the information requested for this part of the request.

Part 4

50. The public authority explained to the Commissioner that while it has a policy that such information has been provided to the Union before, the responsibility for managing annual leave entitlement lies with the individual line managers of the service teams on paper records. This information was not held on 'Resourcelink.'
51. In order to collate this information it would be necessary to contact all the individual line managers and would also take over 18 hours.
52. The Commissioner is satisfied that the fees limit would also be exceeded in locating and retrieving the information for part 4. This would also be additional work from part 3 and therefore can be added to the cost estimates total.

Part 7

53. The public authority explained that the same records would need to be checked for part 7 as for part 3, as it would be required to check through all elements about pay to establish if any of these elements are protected.
54. As indicated above the Commissioner is satisfied that this would take an estimated 4250 hours. However he is satisfied that this work could be done at the same time as the work for part 3 and therefore does not add this to the total.

Part 9

55. Part 9 is asking for different information to that in part 3. It is asking for information from the employee records that is not held on 'Resourcelink'.
56. The public authority has informed the Commissioner that there are approximately 2000 employee records in each of the four years and these 8000 records would need to be checked to see if any bonuses were paid and what calculations were used.
57. It informed the Commissioner that it would take approximately 15 minutes per record.

15 minutes x 8000 = 2000 hours.
58. The Commissioner is satisfied that 15 minutes is a reasonable estimate for one record. Therefore he believes that the public authority would have been required to exceed the fees limit to provide the information requested for this part of the request by a significant margin.
59. The Commissioner is satisfied that this work would not be encompassed in part 3 and therefore would need to be added to the total.

Total

60. Overall the Commissioner is satisfied that the fees limit applies to the aggregated nine requests for information. The total amended estimate of the time required to process the request is:

4250 + 2000 + 18 = 6268 hours
61. He is satisfied that this estimate is 'sensible, realistic and supported by cogent evidence'. As 6268 hours is well beyond the 18 hour limit, the public authority can apply the section 12(1) exclusion to the aggregated request and is not required to provide any recorded information at all. The Commissioner therefore upholds the application of section 12(1) in this case.
62. The Commissioner notes that to be helpful the public authority has provided information for part 8 in any event.

63. As the Commissioner has found that section 12(1) was correctly applied by the public authority he did not go on to consider the application of the exemptions cited in sections 14(2), 21(1), 36(2), 40(2) or 43(1) in this case.

Procedural Requirements

Section 16(1)

64. Section 16(1) (full text 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.
65. The Commissioner is satisfied that the request was clear and further clarification was not needed for this request. Therefore paragraphs 8 to 11 of the Code did not require additional assistance to be provided in this 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 obtain information without attracting the costs limit in accordance with paragraph 14 of the Code. In this case the Commissioner has considered whether it would have been reasonable for the public authority to have advised the complainant to reduce the scope of his request.
67. The public authority has provided the Commissioner with detailed records of the advice and assistance provided in this case. It is clear from these records that the public authority has tried to assist the complainant in this case. It has offered a meeting, responded to his questions, provided extra clarification and asked for the complainant to contact it on a number of occasions. The situation around section 12(1) was confused as the public authority was also applying section 21(1) at the same time.
68. However the Commissioner believes that the public authority stated incorrectly that all the requested information held had been provided to the Union previously. In particular it did not consider the request to reflect the current position alongside the Single Framework Agreement and read the request to be about the Single Framework Agreement alone. Therefore, the Commissioner considers that it would have been reasonable for it to have offered the complainant the information that could have been derived from the electronic case management system for request 8, and a full list of posts, as this could have been done within the costs limit. Therefore the Commissioner has found that the public authority has breached section 16(1) of the Act.
69. The Commissioner therefore requires that the public authority contacts the complainant and discusses what it can provide within the costs limit.

Section 17(5)

70. Section 17(5) (full text in the legal annex) requires that if a public authority is to rely on section 12(1) that it issues a notice within twenty working days. In this case the public authority took considerably more than twenty working days and the Commissioner therefore finds a breach of section 17(5) of the Act.

The Decision

71. The Commissioner's decision is that the public authority dealt with the following elements of the request in accordance with the requirements of the Act:
- *Section 12(1) has been applied correctly when aggregating the work required to process all the requests for information.*

However, the Commissioner has also decided that the following elements of the request were not dealt with in accordance with the Act:

- *Section 16(1). While the Council provided much valuable assistance it did not provide reasonable assistance when it came to considering what information could be offered that would not have exceeded the cost limit.*
- *Section 17(5) with regard to the lack of provision of a section 12(1) Refusal Notice within the statutory time limit of 20 working days.*
- *Section 10(1) for not confirming that the information that was not provided to the Union previously was held within the statutory time limit of 20 working days.*
- *Section 1(1)(a) for incorrectly denying it held that information that it did not provide to the Union previously.*

Steps Required

72. The Commissioner requires the public authority to take the following steps to ensure compliance with the Act:
- The Commissioner requires that the public authority contacts the complainant and discuss what it can provide within the costs limit, in order for it to comply with its obligations under section 16(1).
73. The public authority must take the steps required by this notice within 35 calendar days of the date of this notice.

Failure to comply

74. Failure to comply with the steps described above may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Act and may be dealt with as a contempt of court.

Right of Appeal

75. 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@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 served.

Dated the 9th day of September 2009

Signed

**Anne Jones
Assistant Commissioner**

**Information Commissioner's Office
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Water Lane
Wilmslow
Cheshire
SK9 5AF**

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.

Section 17 – Refusal of request

...

(5) A public authority which, in relation to any request for information, is relying on a claim that section 12 or 14 applies must, within the time for complying with section 1(1), give the applicant a notice stating that fact.

Section 21 – Information accessible to applicant by other means

(1) Information which is reasonably accessible to the applicant otherwise than under section 1 is exempt information.

(2) For the purposes of subsection (1)—

(a) information may be reasonably accessible to the applicant even though it is accessible only on payment, and

(b) information is to be taken to be reasonably accessible to the applicant if it is information which the public authority or any other person is obliged by or under any enactment to communicate (otherwise than by making the information available for inspection) to members of the public on request, whether free of charge or on payment.

(3) For the purposes of subsection (1), information which is held by a public authority and does not fall within subsection (2)(b) is not to be regarded as reasonably accessible to the applicant merely because the information is available from the public authority itself on request, unless the information is made available in accordance with the authority's publication scheme and any payment required is specified in, or determined in accordance with, the scheme.