

FREEDOM OF INFORMATION ACT 2000 (SECTION 50)

DECISION NOTICE

Dated 2005

Name of Public Authority: Wansbeck District Council

Address of Public Authority: Town Hall
Ashington
Northumberland
NE63 8RX

Nature of Complaint

The Information Commissioner (the "Commissioner") has received a complaint alleging that on 28 January 2005 the following information under the Freedom of Information Act 2000 (the "Act") was requested from Wansbeck District Council :

A copy of the report presented by the panel of four independent members of the complaints committee that was set before Wansbeck District Council in March 2004.

It is alleged that Wansbeck District Council have failed to provide the complainant with the information requested.

The Commissioner's Decision

Under section 50(1) of the Act, except where a complainant has failed to exhaust a local complaints procedure, or where the complaint is frivolous or vexatious, subject to undue delay, or has been withdrawn, the Commissioner has a duty to consider whether the request for information has been dealt with in accordance with the requirements of Part I of the Act and to issue a Decision Notice to both the complainant and the public authority.

Section 1(1) of the Act states –

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

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

Section 10(1) of the Act states -

"...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."

By virtue of section 17 of the Act, where a public authority is to any extent relying on a claim that any of the exemptions in Part II apply to the request it must, within the time for complying with section 1(1), give the applicant a notice which -

- (a) states that fact,
- (b) specifies the exemption in question,
- (c) states (if that would not otherwise be apparent) why the exemption applies.
- (d) contain particulars of any procedures provided by the public authority for dealing with complaints about the handling of requests for information or state that the authority does not provide such a procedure, and
- (e) contains particulars of the right conferred by section 50 to apply to the Commissioner for a decision as to whether a request for information has been dealt with in accordance with the requirements of Part I of the Act.

The Commissioner's decision in this case is that Wansbeck District Council has not dealt with the complainant's request in accordance with the requirements of Part I of the Act in that it has failed to either comply with section 1(1) or section 17 within the time limit set out in section 10(1).

Action Required

In view of the matters referred to above the Commissioner hereby gives notice that in exercise of his powers under section 50 of the Act he requires that Wansbeck District Council shall, within 30 days of the date of this Decision Notice—

- (a) inform the complainant whether it holds information of the description specified by him in his request and, if it does, provide that information to him in accordance with section 1 of the Act, or
- (b) provide the complainant with a refusal notice in accordance with section 17 of the Act.

Failure to comply

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

Right of Appeal

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

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

Tel: 0845 6000 277
Fax: 0116 249 4253
Email: informationtribunal@dca.gsi.gov.uk

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 day of May 2005

Signed:

Graham Smith
Deputy Commissioner

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