

FREEDOM OF INFORMATION ACT 2000 (SECTION 50)

DECISION NOTICE

Dated 21st March 2006

Public Authority: Bolsover District Council

**Address: Sherwood Lodge
Bolsover
Derbyshire
S44 6NF**

Summary Decision and Action Required

The Commissioner's decision in this matter is that the Public Authority has not dealt with the Complainant's request in accordance with Part I of the Act in that it has failed to comply with its obligations under section 1(1)(a).

1. Freedom of Information Act 2000 (the 'Act') – Application for a Decision and the Duty of the Commissioner

1.1 The Information Commissioner (the 'Commissioner') has received an application for a decision whether, in any specified respect, the Complainant's request for information made to the Public Authority has been dealt with in accordance with the requirements of Part I of the Freedom of Information Act 2000 (the 'Act').

1.2 Where a complainant has made an application for a decision, unless:

- a complainant has failed to exhaust a local complaints procedure, or
- the application is frivolous or vexatious, or
- the application has been subject to undue delay, or
- the application has been withdrawn or abandoned,

the Commissioner is under a duty to make a decision.

1.3 The Commissioner shall either notify the complainant that he has not made a decision (and his grounds for not doing so) or shall serve a notice of his decision on both the complainant and the Public Authority.

2. The Complaint

2.1 The Complainant has advised that on the 8th April 2005 the following information was requested from Bolsover District Council ("the Council") in accordance with section 1 of the Act:

“the necessary information so that I [the Complainant] may calculate whether, and, if so, how much Council Tax Benefit may be due to me.”

- 2.2 On the 19th April the Council responded to the request by describing the method used to calculate Council Tax Benefit. The Council explained that the calculation of Council Tax Benefit is very complicated and that the Authority’s staff work with a raft of regulations issued by the Government and that staff use a computer system which takes account of information input and calculates various elements of the claim.
- 2.3 The Council offered to assist the Complainant in calculating any benefit available to him and asked him to submit a completed application form for Council Tax Benefit. In this respect it seems that the Council had initially treated the request as a request for assistance in claiming the benefit rather than a request under Section 1 of the Act.
- 2.4 Following a further letter from the Complainant (dated 25th April 2005) clarifying that he was making a request under the Act, the Council subsequently provided a fuller response on the 6th May. The further response from the Council set out the alternative methods by which individuals can apply for Council Tax Benefit and again explained that the usual method of assessment involved inputting the information from benefit application forms into the Council’s computer system which then analyses the data and generates an assessment.
- 2.5 The Council responded to the request of the 8th April within 20 working days.
- 2.6 It is alleged that the council failed to supply the complainant with the information he requested.

3. Relevant Statutory Obligations under the Act

3.1 Section 1(1) provides that –

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

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

Section 16(1) provides that –

“It shall be the duty of a public authority to provide advice and assistance, so far as it would be reasonable to expect the authority to

do so, to persons who propose to make, or have made, requests for information to it”.

4. Review of the case

- 4.1 The Council failed to provide the Complainant with the information requested, not because the information in question was exempt, but because it simply did not hold the information in question. Following enquiries by the Commissioner the Council has explained that council tax benefits claims are processed by computer and are entirely reliant on information provided by individual applicants. The Council has demonstrated that there is no general formula or calculation that it could have provided that would have allowed the complainant to calculate for himself the amount of council tax benefit which he may have been due. However, the Council failed to state clearly in its correspondence with the Complainant that it did not hold the information.
- 4.2 The Commissioner has also considered the extent to which the Council should have provided the Complainant with advice and assistance. The Commissioner acknowledges that the Council offered an alternative route for the Complainant to calculate how much council tax benefit he may have been due, in the form of an internet address for an on-line benefits calculator. However, as the Council did not hold the information requested by the Complainant, there was no advice or assistance that the Council could have offered that would have allowed the Complainant to reformat his request in such a way that would have resulted in him receiving some or all of the information he required.

5. The Commissioner’s Decision

- 5.1 The Commissioner’s decision is as follows:

Section 1(1)(a) – By failing to inform the complainant that it did not hold the information that was requested the Council have breached section 1(1)(a).

Section 1(1)(b) – Since the Commissioner accepts that the council does not hold the information requested by the complainant the council is not in breach of section 1(1)(b).

Section 16 – The Council is not in breach of section 16

6. Right of Appeal

- 6.1 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 877
Fax: 0116 249 4253
Email: informationtribunal@dca.gsi.gov.uk

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

Dated the 21st day of March 2006

Signed:

**Phil Boyd
Assistant Commissioner**

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