

Freedom of Information Act 2000 (Section 50)

Decision Notice

Date: 3 July 2008

Public Authority: Chief Constable of Durham Constabulary
Address: Durham Constabulary Headquarters
Aykley Heads
Durham
DH1 5TT

Summary

The complainant requested information about vehicle recovery work carried out by a particular operator contracted to the public authority to carry out this work within a specified area. The public authority disclosed the total number of recoveries made within the period specified in the request, but withheld the remainder of the information under section 43(2) (commercial interests). The public authority later amended its stance in respect to part of the request and stated that the information requested was not held. The Commissioner finds that section 43(2) is not engaged as there is no real or significant risk of prejudice to commercial interests and the public authority is required to disclose the withheld information. The Commissioner further finds that the public authority was correct in concluding that it did not hold some of the information requested, but that it failed to comply with section 10(1) in not informing the complainant that this information was not held within 20 working days of receipt of the request.

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. The request was made on 24 December 2005 and was for the following information:

"1. The number of stolen cars recovered by Darlington Car & Commercial

Recovery under the Durham Constabulary CVRS [Contract Vehicle Recovery Scheme] in the year ending 31.12.2005 or any other similar recent period for which records are available.

- 2. Of those recoveries identified in 1 above, the number of recoveries that attracted a specialist lifting fee.*
 - 3. Of those recoveries identified in 1 above, the average period from recovery of the vehicle to receipt, by the owner, of notification that the vehicle had been recovered.*
 - 4. Of those recoveries identified in 1 above, the average period from recovery to collection of the vehicle.*
 - 5. Of those recoveries identified in 1 above, the average period charged for storage at £12 per 24 hour period or part thereof.”*
3. The public authority responded to this on 31 January 2006. The information requested at part 1 of the request was disclosed, with the public authority stating that Darlington Car & Commercial Recovery (DCCR) had recovered 212 stolen vehicles during the period specified in the request.
 4. The information requested at parts 2 to 5 of the request was withheld. In connection with these parts of the request, the public authority stated that it believed the information requested to be exempt by virtue of section 43 (commercial interests). The public authority stated that the view of DCCR was that disclosure would give its competitors a ‘competitive edge’, that its ability to compete for future business with public authorities would be prejudiced and that disclosure would cause damage to its reputation and the confidence of its customers, suppliers and investors. The public authority agreed with the view of DCCR that disclosure would cause prejudice to commercial interests and concluded that the public interest favoured the maintenance of the exemption.
 5. The complainant contacted the public authority on 4 February 2006 to request an internal review of the handling of his request. The public authority responded with the outcome to the review on 18 April 2006. This upheld the refusal in respect to the information specifically requested by the complainant. However, the reviewer also concluded that information relating to the CVRS for the entire area covered by the public authority could be disclosed to the complainant for the period 1 December 2005 to 31 March 2006. The rationale for this was that this information related to several vehicle recovery operators, rather than solely to DCCR, and that it would not be possible to discern from this information the revenue generated for any individual firm through CVRS work. This information relating to the entire area covered by the public authority was disclosed to the complainant by letter dated 9 May 2006 for parts 1, 2, 4 and 5 of the request. In contradiction of the refusal notice, the public authority stated that it had no record of when vehicle owners received notification that their vehicle had been recovered and so it was not possible to provide to the complainant the information requested at part 3 of his request.

The Investigation

Scope of the case

6. The complainant contacted the Commissioner on 29 June 2006 to complain about the handling of his request. As well as the refusal to disclose the majority of the requested information, the complainant was also dissatisfied with the conduct of the internal review. Specifically, the complainant believed that the review was rendered invalid as the reviewer had conducted this as though an extension of his overall dispute with the public authority, rather than in isolation from this wider context.
7. On this issue, the Commissioner would stress that neither the Act, nor the section 45 Code of Practice, is specific about how internal reviews should be conducted. It is not, therefore, open to the Commissioner to conclude in a Decision Notice that a breach of the Act has occurred through the conduct of an internal review.
8. In response to the specific issue raised by the complainant here that it is inappropriate to take into account any wider context outside of the handling of the request when conducting an internal review, it is the case that an information request should be considered in isolation. It follows, therefore, that an internal review should also be isolated from context.
9. Turning to the internal review in this case, the Commissioner would note that, on the evidence of the correspondence giving the outcome to the review, it appears that this review was conducted with an appropriate level of professionalism. Whilst the reviewer does rehearse the background to the information request, there is no suggestion that the reviewer was influenced by this in such a way that it would render the review invalid or unfair. The Commissioner's stance on this issue has been communicated to the complainant previously and issues related to the internal review are not covered further in this notice.
10. As mentioned above, the outcome to the review was that information relating to the CVRS scheme for the entire area covered by the public authority was to be disclosed to the complainant. Following this, there was further correspondence exchanged between the complainant and the public authority and some information was disclosed to the complainant. Early in the case handling process, the Commissioner contacted the complainant to ascertain his stance following these disclosures. The complainant confirmed that he remained dissatisfied with the refusal to provide the majority of the information requested. This notice relates to the refusal of the request quoted above. It does not cover the later correspondence between the complainant and the public authority during which some information similar to that requested above was disclosed to the complainant.

Chronology

11. Prior to the opening of the investigation, the public authority was asked to provide to the Commissioner's office a copy of the information withheld from the complainant. The public authority provided this information to the Commissioner by letter dated 26 July 2006.
12. Following this, the Commissioner contacted the public authority on 11 December 2007. In this letter, the grounds for the complaint were set out and the public authority was asked to respond with further explanations about its stance in response to the complainant's information request. Specifically, the public authority was asked to respond to the following:
 - The refusal notice specified commercial interests, indicating that subsection 43(2) was considered relevant. The public authority was asked to explain how and why it believed prejudice would result to the commercial interests of DCCR through disclosure. The refusal notice had stated that DCCR had been consulted for its views on disclosure at the time of the request. The public authority was asked to confirm what these views had been.
 - The refusal notice had briefly covered the issue of the balance of the public interest. The public authority was asked to present any further arguments that it wished to as to why it believed that the public interest favoured the maintenance of the exemption here. It was noted that when concluding that some similar information to that requested could be disclosed to the complainant, the internal review response had stated that "*...there is an apparent and clear public interest to be served from disclosure of certain information to you.*" The public authority was asked to address why the public interest was believed to clearly favour disclosure of information about all vehicle recovery operators, but was not believed to favour disclosure of the specific information requested by the complainant.
 - In connection with part 3 of the request, the public authority was asked for confirmation as to whether or not it held information falling within the scope of this part of the request. If its stance was that this information was not held, the public authority was asked to confirm what steps it had taken in order to verify whether this information is held.
13. The public authority responded by letter dated 16 January 2008. The public authority stated that disclosure of the requested information would enable the complainant to calculate the earnings of DCCR from this aspect of its work during the period specified using 'published statutory fees' and 'simple mathematics'. The public authority believed that were the earnings of DCCR to become public, this would give a commercial advantage to rival vehicle recovery operators. The public authority believed that this commercial advantage would result through competitors of DCCR having access to information the equivalent of which DCCR would not have access to about its competitors.
14. The public authority confirmed that DCCR had been consulted for its views with regard to disclosure of the requested information and the public authority provided a copy of a letter dated 8 January 2008 in which DCCR gave its views

about disclosure of the requested information. In this letter DCCR stated the following:

“The information now requested seems to fall outside the scope of the act, and it would be easy for a competitor to calculate our earnings.

The recovery industry is very competitive and this information is of a sensitive nature and relates to the accounting side of our business. We feel very strongly that in the wrong hands, this information would be easily interpreted by a competitor which could seriously undermine the future of our business.”

15. The public authority went on to describe why it considered that the public interest favoured the maintenance of the exemption in this case, stating that it considered that to maintain a fast and efficient removal of stolen or abandoned vehicles is in the public interest. The public authority believed that disclosure of the information in question would harm its relationship with DCCR and would jeopardise the provision of the vehicle recovery service.
16. In connection with the third part of the request, the public authority confirmed that its stance was that this information was not held. The public authority emphasised that it did not attempt to record when vehicle owners *received* notification that their vehicle had been recovered.
17. The Commissioner contacted the public authority again on 31 January 2008. In this letter, the public authority was asked to further explain how it would be possible to calculate the earnings of DCCR and how this could be extrapolated into annual income. It was noted that the public authority had referred to ‘published statutory fees’ and ‘simple mathematics’ in its previous response. The public authority was asked to specify where the statutory fees are published and to demonstrate how simple mathematics, allied with the withheld information, could be used to calculate the earnings of DCCR.
18. In connection with the third part of the request, it was noted that the public authority had emphasised that it had no record of when vehicle owners *received* notification that their vehicle had been recovered. The public authority was asked to specify whether it held a record of when these notifications are sent.
19. The public authority responded to this on 14 February 2008 and confirmed that the statutory fees referred to previously are set at £105 per recovery and £12 per 24 hour storage period in The Removal, Storage and Disposal of Vehicles (Prescribed Sums and Charges etc.) Regulations 1989. The public authority clarified that the provision of the details of the number of recoveries and the period charged for storage would enable calculation of the income of DCCR from these activities.
20. In connection with the third part of the complainant’s request, the public authority confirmed that it does maintain a record of when notifications are sent to vehicle owners. This information is supplied to the public authority by DCCR.
21. The Commissioner contacted the public authority again on 20 February 2008. In

this communication, the public authority was asked to confirm whether DCCR is responsible for notifying car owners that their vehicle has been recovered and whether the specialist lifting fee referred to in the second part of the complainant's request is set by statute and thus publicly available. If this fee was not set by statute, the public authority was asked to confirm whether the complainant was aware of the level of this fee from any other source.

22. The public authority responded to this on 28 February 2008, stating that the Contract Vehicle Recovery Scheme operator, in this case DCCR, is responsible for notifying the vehicle owner of recovery. The public authority went on to confirm that the level of the specialist lifting fee is not set by statute, but that the complainant was aware of the level of this fee due to this being shown on the invoice provided to him by DCCR. The public authority provided to the Commissioner a copy of the invoice showing the level of the specialist lifting fee.
23. The public authority was contacted again on 18 March 2008. At this stage, the public authority was advised that it was now clear how it would be possible to calculate part of DCCR's income through this aspect of its work from the withheld information and also that DCCR had made its objection to the disclosure of the withheld information clear. It was not, however, entirely clear how prejudice to the commercial interests of DCCR would be likely to result from disclosure.
24. The public authority was asked for further clarification of its arguments as to how this prejudice would occur. In relation to the specialist lifting fee, it was noted that this would appear to be payable primarily according to the circumstances in which the vehicle is found and so the instances in which such a fee would be payable would be unlikely to vary significantly according to CVRS contractor. It was recognised, however, that the public authority may believe that a rival contractor to DCCR may suggest that it would be necessary for it to charge a specialist lifting fee less often due to superior equipment or expertise.
25. It was further noted that disclosure of the information requested at parts 4 and 5 of the request would not divulge how much is charged by DCCR as these fees are set by statute. It was acknowledged that the public authority may wish to argue, for example, that a competitor of DCCR would be advantaged by being able to claim that vehicles would be returned to the owner within a shorter period of time, although the Commissioner observed that this period was likely to be primarily reliant on how promptly a vehicle owner responds to notification that their vehicle has been recovered.
26. In its letter of 16 January 2008, the public authority had referred briefly to the possibility of establishing the profitability of vehicle recovery work in a particular area through disclosure of the requested information. The public authority was asked to be specific as to whether it believed that DCCR would be commercially disadvantaged by disclosure of the volume of vehicle recovery work in its contracted area.
27. The public authority responded on 7 April 2008, stating that it had again consulted with DCCR about the issues raised in the Commissioner's previous correspondence. On the issue of the specialist lifting fee, the public authority

stated that this is not fixed; it varies from case to case according to the condition in which the vehicle is found and will vary between contractors. The public authority believed that if the average rate of the specialist lifting fee charged by DCCR were to be disclosed, this would enable rival recovery operators to undercut DCCR. It was acknowledged that the complainant had not requested the average level of the specialist lifting fee, but the public authority believed that *“there is nothing to prevent him doing so in the future.”*

28. The public authority confirmed that it is the case that the period between recovery and collection by the owner of the vehicle is primarily dependant on how promptly the vehicle owner responds to notification that their vehicle had been recovered, but that it believed that this is an issue of the ‘privacy’ of DCCR. The public authority also stated that *“...there is nothing to stop a contractor from reducing the number of days for which they charge (on, say, a goodwill basis), and it is here where an element of competition may creep in.”*
29. On the issue of establishing the profitability of a particular area, the public authority believed that it would be ‘unequitable’ if the earnings of DCCR from its CVRS work were to be disclosed where DCCR has no similar information about its competitors. The public authority also confirmed that it believed that prejudice would be *likely* to occur through disclosure.

Findings of fact

30. The level of the charges for vehicle recovery and for storage of a recovered vehicle are set in The Removal, Storage and Disposal of Vehicles (Prescribed Sums and Charges etc.) Regulations 1989.
31. The public authority holds a record of when notifications to vehicle owners that their vehicle has been recovered are dispatched.

Analysis

Procedural matters

Section 1

32. The public authority has stated that it does not hold a record of when vehicle owners receive notification that their vehicle has been recovered, but that it does hold a record of when these notifications are sent. The Commissioner accepts the representations of the public authority that it does not hold the information specifically identified in the third part of the complainant’s request and finds that the public authority is in compliance with section 1(1)(a) in denying that information falling within the scope of this part of the request is held. In coming to this conclusion, the Commissioner notes that the public authority does maintain a record of when these notifications are dispatched and accepts that this record would be sufficient for the task of monitoring the process of notifying vehicle owners of recovery. The Commissioner accepts that it would not also be

necessary for the public authority to maintain a list of when these notifications are received.

Section 10

33. In failing to notify the complainant within 20 working days of receipt of the request that information falling within the scope of the third part of the request was not held, the public authority breached section 10(1).

Section 17

34. The refusal notice referred to section 43, but did not specify whether subsection (1) or (2) was considered relevant. In not specifying a subsection, the public authority failed to comply with the requirement of section 17(1)(b).

Exemption

Section 43

35. Section 43(2) is a prejudice based exemption. For this exemption to be engaged, disclosure must cause, or be likely to cause, prejudice to commercial interests. This exemption is also qualified by the public interest. This means that, regardless of the likelihood of disclosure resulting in the prejudice described in the exemption, the information must be disclosed if the public interest favours this.

Prejudice to commercial interests?

36. The stance of the public authority here is that disclosure of the information requested at parts 2, 4 and 5 of the request would be likely to result in prejudice to the commercial interests of DCCR. For the Commissioner to conclude that prejudice is likely, the possibility of prejudice should be real and significant and more than hypothetical or remote. Whilst some extrapolation as to the prejudice that is expected to occur is necessary and appropriate, arguments will carry more weight when supported by evidence.
37. When considering whether prejudice would be likely to occur to commercial interests, the Commissioner must first consider whether the information in question is related to commerce. In this case, the information relates to recovery of vehicles by DCCR. This work is undertaken by DCCR on a commercial basis with the aim of creating a profit. The Commissioner therefore accepts that the information withheld from the complainant can be accurately characterised as relating to commerce.
38. Where arguing that prejudice would be likely to be caused to the commercial interests of any person aside from itself, the Commissioner would generally expect the public authority to consult with that person for their views on disclosure. Where the arguments presented by the public authority are speculative about prejudice caused to the commercial interests of any other person and it transpires that the third party does not in fact have concerns about

disclosure, the Commissioner will not take those arguments into account. If a public authority puts forward arguments about prejudice based on its knowledge of the contractor the Commissioner would expect it to be able to evidence that these arguments reflect genuine concerns of that third party even if they have not been specifically consulted about a particular disclosure. The source of and evidence to support arguments about prejudice will affect the weight attributed by the Commissioner to those arguments. In this case, the Commissioner notes that the public authority has consulted with DCCR both at the stage of responding to this request and when corresponding with the Commissioner about this case and that the arguments presented by the public authority are based on an objection to disclosure on the grounds of prejudice to its own commercial interests voiced by DCCR.

39. The Commissioner notes that the complainant's request relates solely to the number of stolen vehicles recovered by DCCR. He has not asked for information regarding other types of recovery undertaken by that company, such as abandoned or broken down vehicles. It is likely therefore that any calculation of DCCR's income based on the information requested would be flawed, as the data would quite probably be incomplete.
40. At part 2 of the request, the complainant requested the number of recoveries of stolen vehicles that attracted a specialist lifting fee. The public authority confirmed that the specialist lifting fee is not fixed, rather that it varies according to the circumstances in which the vehicle is found. The complainant has not asked for the average level of specialist lifting fee, or for any other details that would disclose the level of the special lifting fee charged in any other case than for the collection of his own vehicle. Disclosure of the information requested by the complainant here would not, therefore, disclose the revenue generated for DCCR through specialist lifting fees.
41. The public authority has recognised that the information requested by the complainant would not divulge the revenue generated through the specialist lifting fee but has stated, as noted above at paragraph 27, that the complainant could request this information in future, such as, for example, by requesting the average level of the specialist lifting fee. That the complainant could request this information in future is not relevant here and the Commissioner gives no weight to this argument. If such a request were made it would need to be considered separately and based on the circumstances applicable at the time it was received by the public authority.
42. Although this issue has not been raised by the public authority, it is conceivable to the Commissioner that an argument could be made that prejudice to the commercial interests of DCCR would be likely to result through a competitor claiming that it would be necessary for it to charge a specialist lifting fee less often as a result of, for example, superior equipment or expertise. The Commissioner believes, however, that the frequency with which it is necessary to charge a specialist lifting fee is likely to be primarily dependant on the condition in which vehicles are found and so is unlikely to vary significantly between recovery operators. It is unlikely, therefore, that a competitor of DCCR could make a credible claim that it would be necessary for it to charge a specialist lifting fee less

often. In any event, were a competitor to make a claim that it would be necessary for it to charge a specialist lifting fee less often than DCCR on the basis that it has superior equipment or expertise, it would not be necessary for it to have access to the number of such charges made by DCCR for it to make such a claim.

43. Turning to parts 4 and 5 of the request, the fee charged for storage of a recovered vehicle is set by statute at £12 per 24 hour period. It therefore appears that companies do not compete on price as this set fee would apply to any company providing vehicle storage services under the CVRS. Disclosure of the average numbers of days a vehicle is stored for and the number of days charged for would enable calculation of the earnings of DCCR from this aspect of its work during the period specified in the request.
44. Establishing this fact alone is not, however, a sufficient basis on which to conclude that the commercial interests of DCCR would be likely to be prejudiced. As the public authority has acknowledged, the period between recovery of a vehicle and the collection of this vehicle by its owner is primarily dependant on how promptly the owner of the vehicle responds to notification that their vehicle has been recovered. This period is, therefore, outside the control of DCCR. The public authority has confirmed that it is the responsibility of the recovery contractor to notify the owner of the vehicle of recovery and it could be argued that a competitor of DCCR could claim to be capable of informing vehicle owners more promptly of recovery. This argument has not, however, been advanced by the public authority. Neither is there any suggestion that DCCR informs vehicle owners of recovery less than promptly.
45. The public authority has put forward 2 arguments with specific regard to the information requested at parts 4 and 5 of the request, firstly that disclosure would be an invasion of the privacy of DCCR. The public authority believes that financial information relating to DCCR should remain private. In response to this argument, the Commissioner would note that firstly and most importantly the Act contains no exemption relating specifically to the privacy of private companies. Furthermore any private company entering into a contract with a public authority should be aware that information recorded by the public authority or by the company and held on behalf of the public authority about the service it provides may be subject to disclosure via the Act. The Commissioner would also note that there are other circumstances aside from the Act in which a private company would be under a statutory obligation to disclose financial details. It is not the case that the revenue and profits of a business should be regarded as being subject to such a strong and legitimate expectation of privacy that disclosure of this information through the Act is inconceivable.
46. Secondly, the public authority has argued that competitors of DCCR may, upon disclosure of the average number of days for which DCCR charges for vehicle storage, voluntarily choose to charge for fewer days in order to undercut DCCR when competing for future CVRS contracts. However, whilst a recovery operator may choose to charge for fewer days than a vehicle is stored for, the Commissioner considers it more likely that this would be due to discretion exercised according to the circumstances in individual cases rather than this being a competitive tool. Neither has any evidence been provided in support of

the assertion that competitors of DCCR would claim to charge for fewer days or of whether this would carry any weight with the public authority during the process of bidding for CVRS contracts.

47. The public authority has further argued that disclosure of the information requested at parts 2, 4 and 5 of the request would enable competitors of DCCR to build up a picture of the profitability of vehicle recovery work in the area covered by DCCR. The public authority believes that this would be unfair as DCCR would not have access to equivalent information about its competitors. Aside from the merits of this argument, the public authority disclosed to the complainant the information requested at part 1 of his request, that is the total number of stolen vehicle recoveries in the area covered by DCCR, at the time of the request. The Commissioner believes that this information is significantly more likely to enable a competitor to develop a picture of the profitability of recovery work in the area covered by DCCR than the information that has been withheld from the complainant.

Conclusion

48. The Commissioner concludes that the possibility of prejudice resulting from disclosure is not real or significant. In coming to this conclusion, the Commissioner notes that the information withheld from the response to part 2 of the request does not disclose the revenue raised by DCCR through specialist lifting fees and that the argument of the public authority that information showing the average level of the specialist lifting fee may be requested in future is speculative and of no relevance here. In connection with parts 4 and 5 of the request, as the public authority has acknowledged, the period of time between recovery of a vehicle and collection by the owner is largely outside the control of DCCR and thus is no reflection on the performance of DCCR.
49. When making the initial decision to withhold information from the response to the complainant's request, it is likely that the public authority felt that it would be a disadvantage to DCCR in a competitive market place for its competitors to have a clear idea about the revenue generated through stolen vehicle recovery work in the area covered by DCCR. However, the Commissioner is not persuaded by this argument in light of the disclosure of the information requested at part 1 of the request, information which appears to reveal more about the profitability of stolen vehicle recovery in this area than anything in the withheld information.
50. As the conclusion is that section 43 is not engaged, it has not been necessary to go on to consider where the balance of the public interest lies.

The Decision

51. The Commissioner finds that the public authority failed to comply with section 1(1)(b) when incorrectly withholding information as exempt under section 43(2). The public authority also failed to comply with section 17(1)(b) when failing to specify subsection (2) of section 43 in the refusal notice and in failing to remedy

this breach prior to the complainant contacting the Commissioner.

52. The Commissioner accepts the representations made by the public authority that the information requested in the third part of the request is not held and finds that the stance of the public authority about this part of the request is compliant with section 1(1)(a). However, the public authority breached section 10(1) in failing to communicate this stance to the complainant within 20 working days of receipt of the request.

Steps Required

53. The Commissioner requires the public authority to take the following steps to ensure compliance with the Act:

Disclose to the complainant the information withheld under section 43(2).

Other matters

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

As noted above, the public authority did not hold information falling specifically within the scope of the third part of the request. The public authority did, however, hold information similar to that requested which showed the date that notifications of vehicle recovery were dispatched. Whilst the complainant did specify that he wished to receive information relating to the time of receipt of these notifications, information showing when these notifications are dispatched is closely related to the specific information requested. The Commissioner believes that it would have been appropriate for the public authority and in line with the spirit of the section 45 code of practice in relation to providing advice and assistance to advise the complainant that it held information closely related to that specified in his request with the intention that the complainant could then confirm or otherwise whether he wished to receive this information. The public authority may wish to consider taking this step at the time of disclosing to the complainant the withheld information.

Failure to comply

55. 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

56. 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

57. 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 3rd day of July 2008

Signed

**Anne Jones
Assistant Commissioner**

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

Legal Annex

Section 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 10

Section 10(1) provides that -

“Subject to subsections (2) and (3), 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.”

Section 17

Section 17(1) provides that -

“A public authority which, in relation to any request for information, is to any extent relying on a claim that any provision of Part II relating to the duty to confirm or deny is relevant to the request or on a claim that information is exempt information 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, and

(c) states (if that would not otherwise be apparent) why the exemption applies.”

Section 43

Section 43(2) provides that -

“Information is exempt information if its disclosure under this Act would, or would be likely to, prejudice the commercial interests of any person (including the public authority holding it).”