

Freedom of Information Act 2000 (Section 50)

Decision Notice

Date: 5 February 2008

Public Authority: Department for Communities and Local Government
Address: Eland House
Bressenden Place
London
SW1E 5DU

Summary

The complainant requested information relating to the North West Regional Assembly from the Government Office for the North West, which refused to comply with the request on the grounds that it was vexatious, in accordance with the exclusion at section 14 of the Act. Following a request for internal review, the decision to cite section 14 was upheld by the Government Office for the South West, on behalf of the Department for Communities and Local Government. The Commission's decision is that the public authority, in this case the Department for Communities and Local Government, applied the Act appropriately in refusing to comply with the request, citing section 14 of the Act.

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. On 22 February 2006, the complainant requested the following information from the Government Office for the North West:
 - *During the recent interval when North West Regional Agency was being restructured, was it actually 'non-existent' (no members)? Was there a reason Lancashire County Council ceased being a member (it couldn't be)?*
 - *Was the reform the idea of the members or imposed by the DPM [Deputy Prime Minister]? Did the DPM write the constitution?*

- *If an interval when no membership, state when (start/end dates). Give dates (start/finish) when Lancashire CC not a member. Name any other local authorities who gave up their membership.*
3. The Government Office for the North West responded on 23 March 2006. The Office refused the request, stating that “we are treating your latest request as a vexatious request for the purposes of section 14 of the Freedom of Information Act.”
 4. The complainant wrote to the Office on 27 March 2006 to request an internal review of the decision to refuse his request for information. On 4 April the authority responded, stating that it upheld its decision to rely on section 14 of the Act to refuse the complainant's request. This letter also included details of the authority's complaints procedure.
 5. The complainant then made a further complaint to the Department for Communities and Local Government about the way the Government Office for the North West handled his request for information. In accordance with the procedures for Government Offices, which state that reviews should be conducted by another Office, the internal review was carried out by the Government Office for the South West.
 6. On 18 August 2006 the outcome of this review was communicated to the complainant. The review stated that, while the requests in themselves were serious in intent, the correspondence was designed to be disruptive, was harassing in its effect on the authority and could also be characterised as obsessive. Accordingly, the review upheld the use of section 14 of the Act to refuse the request.

The Investigation

Scope of the case

7. On 29 August 2006 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 should not have cited section 14 because his request had a serious purpose and could not be considered vexatious.
8. The complainant also raised other issues that are not addressed in this Notice because they are not requirements of Part 1 of the Act.

Chronology

9. On 29 August 2006 the complainant made his complaint to the Commissioner. However, at that stage the Commissioner did not have enough information to take

forward the complaint. Accordingly, the Commissioner contacted the complainant on 15 November 2006 to seek additional information about his complaint.

10. The complainant responded on 16 January 2007, providing copies of additional information relating to his complaint. On 27 February 2007 the Commissioner contacted the complainant to inform him that his complaint had been accepted for formal consideration by the Commissioner and was awaiting allocation to a case officer.
11. On 17 January 2008 the Commissioner contacted the public authority, seeking further copies of correspondence in relation to this case. The public authority responded on 25 January 2008, providing copies of various correspondence and details of the requests for information made by the complainant in the period before he made his 22 February request.

Findings of fact

12. The Government Offices are not themselves public authorities under the Act. Whilst each Government Office will deal with individual requests for information, for the purposes of the Act the public authority is the Department for Communities and Local Government.
13. The public authority has provided evidence to show that the complainant made eight separate but related requests for information from 11 May 2005 to 24 January 2006.

Analysis

Section 14 exclusion

14. Section 14(1) of the Act allows public authorities to refuse to comply with a request for information if the request is vexatious. The full text of section 14 can be found in the attached legal annex.
15. The Commissioner's Awareness Guidance Number 22 sets out his general approach to requests that public authorities consider to be vexatious. This guidance states that the Commissioner believes a request can be treated as vexatious where:

- it would impose a significant burden on the public authority in terms of expense or distraction;

and meets at least one of the following criteria:

- it clearly does not have any serious purpose or value
- it is designed to cause disruption or annoyance
- it has the effect of harassing the public authority

- it can otherwise fairly be characterised as obsessive or manifestly unreasonable

16. The Commissioner has considered the request in the light of this guidance

Significant burden

17. At the time the request was refused, the public authority had already received eight separate requests for information over the past nine months. The Commissioner notes that the requests were lengthy (the request of 22 February 2006 itself ran to 23 pages), often addressed to multiple recipients and covering a wide variety of disparate topics.
18. The Commissioner is satisfied that the request imposed a significant burden on the public authority in terms of expense and distraction. In this case the Commissioner has considered the request in the context of the number, frequency, length and scope of previous correspondence, including requests for information.

Designed to cause disruption or annoyance

19. The public authority has argued that the request is designed to cause disruption or annoyance. In support of its position, the authority has quoted a number of instances in which the complainant has revealed his motivation. Indeed, the complainant's 22 February 2006 request for information states:

"I am insincere and my purpose is mischievous subversion."

20. The Commissioner also notes that the complainant's original complaint to him, dated 29 August 2006 (which in itself runs to some 21 pages) states:

"My own motivation is no more than to be disruptive and annoying."

21. The Commissioner acknowledges that these quotes in themselves, taken from lengthy and often unfocussed correspondence, do not necessarily reveal the true motivation of the complainant. Nevertheless, when taken with the volume and disparate nature of the correspondence the Commissioner is satisfied that the request in question can be characterised as being designed to cause disruption or annoyance.

Can otherwise fairly be characterised as obsessive or manifestly unreasonable

22. The Commissioner's guidance states that a public authority need only demonstrate that one of the criteria listed in the latter half of paragraph 15 (above) is applicable for the request to be deemed vexatious. However, the volume and frequency of the complainant's correspondence with the public authority, together with the tone of the correspondence, leads the Commissioner to believe that it can fairly be characterised as obsessive.

The Decision

23. The Commissioner's decision is that the public authority dealt with the request for information in accordance with the Act because it correctly applied the exclusion under section 14(1).

Steps Required

24. The Commissioner requires no steps to be taken.

Right of Appeal

25. 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 5th day of February 2008

Signed

**Anne Jones
Assistant Commissioner**

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

Legal Annex

General Right of Access

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 1(2) provides that -

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

Section 1(3) provides that –

“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 1(4) provides that –

“The information –

(a) in respect of which the applicant is to be informed under subsection (1)(a), or

(b) which is to be communicated under subsection (1)(b),

is the information in question held at the time when the request is received, except that account may be taken of any amendment or deletion made between that time and the time when the information is to be communicated under subsection (1)(b), being an amendment or deletion that would have been made regardless of the receipt of the request.”

Section 1(5) provides that –

“A public authority is to be taken to have complied with subsection (1)(a) in relation to any information if it has communicated the information to the applicant in accordance with subsection (1)(b).”

Section 1(6) provides that –

“In this Act, the duty of a public authority to comply with subsection (1)(a) is referred to as “the duty to confirm or deny”.”

Vexatious or Repeated Requests

Section 14(1) provides that –

“Section 1(1) does not oblige a public authority to comply with a request for information if the request is vexatious”

Section 14(2) provides that –

“Where a public authority has previously complied with a request for information which was made by any person, it is not obliged to comply with a subsequent identical or substantially similar request from that person unless a reasonable interval has elapsed between compliance with a previous request and the making of the current request.”