

Freedom of Information Act 2000 (Section 50)

Decision Notice

Date: 6 May 2009

Public Authority: Foyle and Londonderry College
Address: Senior School
Duncreggan Road
Londonderry
BT48 0AW

Summary

In 2003, the college attended by the complainant's son did not award him its college fencing colours award. This prompted the complainant to request the criteria for the award of fencing colours. This request was refused as the public authority did not hold the information. When the complainant proved that in fact the criteria were held by the college fencing club, this became the subject of a separate investigation. When this was dismissed, the complainant referred the case to the Assistant Commissioner for Northern Ireland and then the Deputy Commissioner. Both upheld the finding that the college did not hold the fencing colours criteria. Two other related complaints were also dismissed by the Commissioner. One regarded a letter regarding fencing colours which had been written a year earlier. The other regarded a request as to why the college did not hold this information. Both were deemed to be outside the scope of the Act. This Decision Notice considers a repeated request for the published criteria used by the college in the awarding of fencing colours. This was made with a request for information which asked for all documents relating to fencing in the college and documented evidence showing how subscriptions invested by fencing parents had been maximised by the school. The college has refused this request on the grounds that it is vexatious. The Commissioner has upheld the public authority's refusal to comply with the request under section 14(1) 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 19 October 2008 the complainant made the following request by letter:

'I would be grateful if the Board of Governors would now disclose all documents relating to fencing from its inception at the public authority to date. These should include relevant minutes of Board of Governors Meetings and copies of all emails and notes from meetings when fencing was discussed. I am particularly interested in meetings at which the headmaster, members of the Board of Governors and members of staff attended at which fencing colours criteria were outlined and documented. The headmaster will be aware that he is under a legal duty to ensure that all declarations to the Information Commissioner are accurate and truthful and it is not up to him to make judgement decisions as to whether documents are relevant or applicable.

In line with the advice from Sports Northern Ireland received by the school I am also particularly interested in documented evidence that:

- *Public monies received by the school and invested by the school along with the substantial private subscriptions invested by fencing parents has been maximised.*
 - *the adoption of best practice principles recommended by Sports Northern Ireland has been instilled into Foyle and Londonderry's College policies and procedures and that there are clear published criteria set out for fencing colours.'*
3. On 29 October 2008 the public authority replied to the request referring the complainant to a previous letter dated 1 May 2008. The public authority repeated the view expressed in this earlier letter explaining that it considered these requests to be vexatious or repeated.

The Investigation

Scope of the case

4. On 10 November 2008 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 why the school refused to provide the requested documentation and why his request was deemed vexatious. The complainant believes he has a right to all documented information and does not accept that his requests are vexatious. In the investigation of this case, the Commissioner believes it is appropriate to consider the history of previous requests from this complainant.

Chronology

5. **Case FS50137107**

On 1 April 2005 the complainant wrote to the college board of governors and informed them that in 2003 his son had not been awarded the school fencing colours despite representing the school 'Firsts', representing the school and country at Junior Home International Level, and winning the 2003 Junior British Home International Championships with his team. He requested that this issue should be discussed at a Board of Governors meeting. He referred back to a letter of 3 September 2004 when the issue had been raised. This matter was the subject of letters during 2005 and 2006 until on 27 June 2006 the Chairman of the Board of Governors declared the issue closed.

6. On 7 September 2006 the complainant made a formal request to the public authority. He asked for:

1. *'Copies of all documents relating to the criteria used to award school colours for fencing for the years 2000 to date.'*
2. *'Copies of emails and notes from meetings where the award of school colours for fencing was discussed.'*

7. On 4 October 2006 the public authority responded, saying that no such information was held.

8. On 9 October 2006 the complainant wrote to the Commissioner to request that the information be obtained from the public authority.

9. On 18 October 2006 the Commissioner wrote to the complainant and informed that the case had been allocated to a case resolution team.

10. On 14 November 2006 the Commissioner asked the complainant whether he had any reason to believe that the information was held. He said he did not, but he believed that the information ought to be held. The Commissioner explained that an investigation could only be conducted if there was reason to believe the information was held.

11. On 15 November 2006 the Commissioner wrote to the public authority recommending some good practice issues. These concerned the time delays and the need for an internal review. A copy was sent to the complainant. The case was closed (FS50137107).

12. **Case FS50151144**

On 24 January 2007 the complainant sent the Commissioner copies of minutes of meetings of the college fencing club, which recorded a discussion on the criteria used to award fencing colours. The complainant pointed out that the head teacher and college fencing coach were both committee members of the fencing club. The complainant therefore questioned the public authority's statement that no information existed about the criteria used to award fencing colours.

13. On 1 February 2007 the complainant's solicitor wrote to the public authority and asked for the fencing colours criteria.
14. On 20 February 2007 the complainant wrote to the Commissioner and informed him that a document which held the criteria for the awarding of fencing colours did exist. He asserted that the head teacher of the college had knowledge of the existence of this document as it was the recorded minutes of a fencing club committee meeting held on 11 June 2003. The complainant asserted that the head teacher was documented as receiving the minutes of this meeting and was a member of this committee. A copy of this document was sent to the Commissioner. It shows that apologies were received from the head teacher and that the fencing school colours were discussed at that meeting.
15. On 20 February 2007 the complainant wrote to the Commissioner and repeated the request of 7 September 2006. The complainant repeated his belief that there were close links between the college and the fencing club.
16. On 21 February 2007 the Commissioner wrote to the public authority and set out the complaint referring also to section 77 of the Act (which makes it a criminal offence to destroy or conceal requested information in order to prevent its disclosure). The public authority was asked to confirm whether the information was held and how the request was initially handled.
17. On 26 February 2007 the public authority wrote to the Commissioner asserting that the public authority was completely separate from the fencing club and that the public authority therefore did not hold the information requested.
18. On 26 February 2007 the public authority wrote to the complainant's solicitor and informed him that the matter was closed.
19. On 5 March 2007 the Commissioner rang the head teacher who claimed that he was named as president of the fencing club committee but in fact had no active involvement with it. He asserted that the club was totally separate to the college.
20. On 5 March 2007 the complainant forwarded to the Commissioner copies of the two letters of 1 February 2007 and 26 February 2007 sent and received by his solicitor.
21. On 14 March 2007 the complainant informed the Commissioner that the fencing club was part of the college and that the head teacher of the school was a member of the club.
22. On 18 April 2007 the Permanent Secretary of the Northern Ireland Department of Education wrote to the complainant. He thanked him for his letters of 23 March 2007 and 5 April 2007 and noted that the complainant had written to the Ombudsman about the failure of the public authority to award his son with the school colours in 2003. He referred to the fact that the school's decision had been the subject of correspondence between the complainant and his staff on a number of occasions. He explained that his department did not have the power to investigate complaints against a school's board of governors. The department,

- would, however, write to the Chair of the Board of Governors of the college and ensure that the letter of advice issued on 15 November 2006 was discussed by the full board.
23. On 24 April 2007 a General Report was written by the Investigations Department of the Information Commissioner's Office. It concluded that there was insufficient evidence to take this matter further.
 24. On 27 April 2007 the Commissioner wrote to the complainant and explained that no further action would be taken.
 25. On 4 May 2007 the complainant informed the Commissioner that he was not satisfied with this response.
 26. On 9 May 2007 the complainant sent the Commissioner a complaints form.
 27. On 22 May 2007 the complainant again requested from the public authority copies of information that related to the award of colours in 2003. He referred to a letter dated 6 April 2005 in which the Chair of the Board of Governors had promised that the subject would be discussed at the next board meeting.
 28. On 29 May 2007 the public authority informed the complainant that the letter of 6 April 2005 which he had requested (on 22 May 2007) was not on file in the college. The governor of the college also stated "*I confirm that no discussion took place at any Board of Governors meeting on the award of school colours*". He suggested that the requests were becoming vexatious.
 29. On 1 June 2007 the Assistant Commissioner for Northern Ireland wrote to the complainant informing him that his complaint of 10 May 2007 was not upheld.
 30. On 5 June 2007 the complainant called the Commissioner to express his frustration with the response of the Assistant Commissioner. When, during the conversation, the complainant was told it appeared that he was requesting another copy of information he already had, the complainant agreed and said he was making his request "to prove a point". At the end of the telephone call, he was informed that he could complain to the Deputy Commissioner.
 31. On 22 June 2007 the complainant referred his complaint to the Deputy Commissioner.
 32. On 4 July 2007 the complainant wrote to the public authority and asserted his right to the information requested.
 33. On 10 July 2007 the complainant was informed that his complaint would be passed to the Deputy Commissioner.
 34. On 27 July 2007 the Deputy Commissioner wrote to the complainant and informed him that he supported the view that it was not necessary for the Information Commissioner's Office to investigate this matter further. This case was closed (FS50151144).

35. **Case FS50201302**

On 9 April 2008 the complainant asked the public authority to explain why the public authority did not hold information with respect to the standard or rule applied for the annual award of school colours.

36. On 1 May 2008 the public authority replied that it believed the request was vexatious.

37. On 8 May 2008 the complainant informed the Commissioner that his request of 9 April 2008 had been dismissed as vexatious by the public authority.

38. On 9 May 2008 the complainant wrote to the Deputy Commissioner to complain about the public authority's refusal to reply to his request of 9 April 2008.

39. **Case FS50201881**

On 13 May 2008 the complainant asked the Commissioner to investigate the refusal of the public authority on 29 May 2007 to provide the requested information.

40. On the 3 June 2008 the Commissioner informed the complainant that with regard to his letter of 8 May 2008, the Freedom of Information Act could only be applied in cases where the information requested was recorded. It could not be applied to requested explanations. The case was closed (FS50201302).

41. On 10 June 2008 the Commissioner informed the complainant that with regard to his letter of 13 May 2008, complaints had to be submitted within two months of the response to the request for information. The case was closed (FS50201881).

42. **Case FS50222404**

On 19 October 2008 the complainant sent the public authority the current request for information.

43. On 21 October 2008 the complainant wrote to the public authority and repeated his request that he should be provided with documented evidence that the college had complied with the best practice principles recommended by Sports Northern Ireland and therefore had produced a standard or rule used for the award of fencing colours.

44. On 29 October 2008 the Chair of the Board of Governors wrote to the complainant and referred him to an earlier letter of 1 May 2008 which had refused a request on the grounds that it was vexatious or repeated.

45. On 7 November 2008 the Headmaster wrote to the complainant and told him he believed that previous correspondence with the Chair of the Board of Governors had addressed his queries about fencing colours in the school.

46. On 10 November 2008 the complainant wrote to the public authority and repeated his request of 21 October 2008. He also requested all other documented information relevant to fencing including full disclosure of a letter discussing

school policy sent by the Headmaster on 31 May 2008 to Mr William Hay, Member of the Legislative Assembly, (the 'MLA'). This letter was not specifically requested in the information request of 19 October 2008.

47. On 10 November 2008 the complainant wrote to the Commissioner with a copy of his information request of 19 October 2008 and the refusal of 29 October 2008. He asked to see all the documentation that he had requested.
48. On 12 November 2008 the Commissioner wrote to the complainant acknowledging receipt of his complaint.
49. On 22 November 2008 the Commissioner wrote to the public authority and informed it that a complaint had been received.
50. On 22 November 2008 the Commissioner wrote to the complainant and informed him that the case had been allocated to a case resolution team.
51. On 13 March 2009 the Commissioner wrote to the complainant and the public authority and informed them that a case officer had been allocated.
52. On 3 April 2009 the complainant wrote to the public authority and repeated his request, asking for his concerns to be raised before the Board of Governors. He repeated his request with particular reference to the letter discussing school policy, referred to in paragraph 46. This had not been specifically requested in the information request of 19 October 2008.
53. On 6 April 2009 the complainant wrote to the Commissioner and sent more correspondence. He repeated his request with particular reference to the letter sent by the Headmaster to a local MLA discussing school policy. He sent the Commissioner a copy of the letter he had sent to the public authority on 3 April 2009.

Summary of Background

54. The complainant has been corresponding with the public authority continuously for several years over the same issue. There have been five complaints referred to the Information Commissioner's Office since 2006.
55. The first request of 7 September 2006 was refused by the public authority on the grounds that the information was not held. The Information Commissioner's Office recommended some good practice guidelines to the public authority and the case was closed (FS50137107).
56. The next two complaints did not warrant investigation under the Freedom of Information Act. One case (FS50201302) was dismissed because it did not apply to recorded information. The other case (FS50201881) was dismissed because it referred to a letter written one year previously.

57. The fourth case (FS50151144) arose out of the complainant's evidence that the information was held by the fencing club and his assertion that the head teacher had access to it. This resulted in an investigation which dismissed the case on 24 April 2007.
58. On 9 May 2007 the complainant submitted a service complaint against the Information Commissioner's Office. This was answered by the Assistant Commissioner for Northern Ireland in June 2007 and then the Deputy Commissioner in July 2007. It was not upheld.

Analysis

Procedural matters

59. The public authority's refusal to disclose the information on 29 October 2008 referred to a previous refusal on 1 May 2008. This in turn referred to "previous comments on vexatious or repeated requests".
60. Under section 17(6) of the Act, a public authority does not need to provide a notice of refusal where it is relying on section 14 and it has already given the requester a notice in relation to a previous request for information. This applies if it would be unreasonable to expect a further refusal notice. In accordance with section 17(6) of the Act, the public authority did state that it was relying on a previous refusal; however this earlier refusal was not made in accordance with section 17(5) of the Act.
61. Section 17(5) of the Act states that a refusal notice which cites section 12 or section 14 must specify the exemption in question. The refusal notice of the public authority dated 1 May 2008 refused the request simply on the grounds that it was "vexatious and repeated". The Commissioner therefore finds the public authority to be in breach of section 17(5) and section 10(1) as a new refusal notice should have been issued within the statutory time period .
62. Under section 17(7) of the Act, a public authority must, in the refusal notice, provide particulars of any procedure 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. The public authority must provide particulars of the right conferred by section 50 for the complainant to refer to the Information Commissioner's Office. This was not included in the refusal of 1 May 2008 or 29 October 2008. The Commissioner therefore finds the public authority to be breach of section 17(7).
63. The full text of section 17 and section 10 is available in the Legal Annex at the end of this Notice.

Section 14(1)

64. Under section 14(1), a public authority is not obliged to comply with a request for information if the request is vexatious.
65. The full text of section 14 is available in the Legal Annex at the end of this Notice.
66. The Commissioner has produced Awareness Guidance 22 as a tool to assist in the consideration of what constitutes a vexatious request.
67. In line with the above guidance, the Commissioner's general approach was to consider the following questions:
 - Could the request fairly be seen as obsessive?
 - Is the request harassing the authority or causing distress to staff?
 - Would complying with the request impose a significant burden in terms of expense and distraction?
 - Is the request designed to cause disruption or annoyance?
 - Does the request lack any serious purpose or value?

Could the request fairly be seen as obsessive?

68. In judging whether a request is obsessive, the guidance is clear that the history and context of a request is important and must be taken into consideration. Relevant factors here include whether or not there is a clear intention to use the request to reopen issues which have already been debated and considered. In the Information Tribunal case *Ahilathirunayagam vs. the Information Commissioner and London Metropolitan University (EA/2007/24)*, the Tribunal argued that because the request appeared to be "intended simply to reopen issues which had been disputed several times before" it could be judged as vexatious. In this case it is apparent that the question of the school's criteria for the awarding of fencing colours has been addressed before. The issue first came to the attention of the Commissioner in September 2006 and has been the subject of four complaints since then. The first request regarded information not held. The second request regarded information which was not recorded. The third was dismissed as outside the time limit for complaints. The current request the Commissioner has been asked to consider is closely related to these others and as such can be labelled as obsessive. The Tribunal in the case of *Betts vs. the Information Commissioner and the East Riding of Yorkshire Council (EA/2007/0109)* concluded that a request was vexatious if it was a "continuation of a pattern of requests". This judgement can be applied to this case. The complainant has been informed that the public authority does not have a copy of a policy which gives the criteria for the awarding of fencing colours. There are no minutes in the possession of the public authority which discuss such a policy and no documented evidence of fencing criteria. It would appear that no repetition of these facts will satisfy the complainant.

Is the request designed to cause disruption or annoyance?

69. To request all documents relating to fencing from its inception at the college to date could be seen as designed to cause annoyance and disruption in the context of the previous requests. Likewise, the request for documented evidence which show that subscriptions made by fencing parents has been maximised can also be interpreted as designed to cause annoyance because of previous requests. The Tribunal in the case of *Gowers vs. the Information Commissioner and London Borough of Camden (EA/2007/0114)* argued that context and history are important when considering if a request is vexatious. The Tribunal stated that “the effect a request will have may be determined as much, or indeed more, by that context as by the request itself”. This is apparent in the repeated request for information to show that the college has clear published criteria set out for fencing colours. It is reasonable to assume that this request has been made as a direct result of the inability of the college to provide minutes which demonstrate such criteria. This is the latest in a series of requests which have been substantially similar. Because it is so closely linked to previous requests, it is reasonable to conclude that it is designed to cause disruption and annoyance. This is the “likely effect of the activity or behaviour” (*Gowers*).
70. In the Tribunal case of *Coggins vs. the Information Commissioner and Norfolk County Council (EA/2007/0130)*, it was found that the Tribunal may consider the motives of the complainant. Although this is in marked contrast to other types of appeals under the Freedom of Information Act, where a Tribunal is said to be strictly applicant and motive blind, in such cases it is necessary to examine what lies behind a particular request. Although it is difficult to prove the complainant's intention, the Commissioner finds that the request in this case is closely linked to the previous requests and obviously rooted in the complainant's past failure to obtain the information he seeks. In addition, the complainant admitted in a telephone conversation in June 2007 that his request at that time was intended “to prove a point”. The Commissioner therefore finds that the current request is also designed to cause disruption and annoyance.

Does the request lack any serious purpose or value?

71. The question of whether a serious or proper purpose can continue to justify a series of requests will overlap with the question of whether the latest request can fairly be seen as obsessive. It might be argued that the request in itself has a serious purpose in that the complainant wishes to see if the public authority has adopted the best practice principles recommended by Sports Northern Ireland. However, the issue of published criteria for fencing colours has been fully considered by the College and by the Commissioner in the past. There is no obvious justification in continuing with repeated requests for information concerning fencing colours. There are no published criteria and the college does not have minutes which refer to the subject. The complainant is simply refusing to let the matter drop. The Commissioner therefore finds that although the request has been widened to cover more information, there is no continuing justification for the request as it is the direct result of past failure to obtain information.

Is the request harassing the authority or causing distress to staff?

72. The relevant issue here is the request itself. The question is whether having to deal with the request would be distressing or harassing. Factors which can be taken into consideration are the volume and frequency of correspondence and the use of hostile or abusive language. As this is the fifth request in three years, and as each request is politely written, the Commissioner does not find the requests to be either harassing or causing distress.

Would complying with the request impose a significant burden in terms of expense and distraction?

73. To request all documents relating to fencing from its inception at the college to date could be construed as burdensome. Likewise, the request for documented evidence which shows that subscriptions made by fencing parents has been maximised may be burdensome. Responding to such a request would undoubtedly distract staff from their usual work; however, the judgement here must consider whether the request would divert a disproportionate amount of resources from the core business of the public authority. In this case, it is unlikely that the time involved in complying with the request would be excessive. The Commissioner therefore does not find that complying with the request would impose a significant burden.

Conclusion

74. It is apparent that there are strong arguments to support a conclusion that the request under consideration is vexatious. All the requests made are closely related and have a clear theme linking them. They are the direct result of the failure to obtain a recorded policy which gives the fencing award criteria. This failure is the source of all the other requests. The complainant was not satisfied with the final outcome of his initial request but repeated requests should not be used to revisit the same issues. The requests in themselves may not be causing distress or be deemed burdensome; however they are an irritant and a distraction and serve no purpose. The requests are not going to change the central fact that the college does not hold information that records the fencing award criteria. The Commissioner therefore finds the latest request which is the subject of this Decision Notice (19 October 2008) to be vexatious.
75. The Commissioner has considered the arguments under section 14(2) (identical or substantially similar requests), but given the strength of the points made under section 14(1), has not applied them here.

The Decision

76. 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).

77. However, the Commissioner has also decided that the public authority breached section 17(5), section 17(7) and section 10(1) of the Act. It failed to provide an adequate response which specified the exemption within the statutory timeframe. It also failed to provide particulars of any procedure 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. It did not provide particulars of the right conferred by section 50 for the complainant to refer to the Information Commissioner's Office.

Steps Required

78. The Commissioner requires no steps to be taken.

Right of Appeal

79. 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 6th day of May 2009

Signed

**Graham Smith
Deputy 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.”

Time for Compliance

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 10(2) provides that –

“Where the authority has given a fees notice to the applicant and the fee paid is in accordance with section 9(2), the working days in the period beginning with the day on which the fees notice is given to the applicant and ending with the day on which the fee is received by the authority are to be disregarded in calculating for the purposes of subsection (1) the twentieth working day following the date of receipt.”

Section 10(3) provides that –

“If, and to the extent that –

(a) section 1(1)(a) would not apply if the condition in section 2(1)(b) were satisfied, or

(b) section 1(1)(b) would not apply if the condition in section 2(2)(b) were satisfied,

the public authority need not comply with section 1(1)(a) or (b) until such time as is reasonable in the circumstances; but this subsection does not affect the time by which any notice under section 17(1) must be given.”

14 Vexatious or repeated requests

- (1) Section 1(1) does not oblige a public authority to comply with a request for information if the request is vexatious.
- (2) 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 the previous request and the making of the current request.

17 Refusal of request

- (1) 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.

- (2) Where—
 - (a) in relation to any request for information, a public authority is, as respects any information, relying on a claim—
 - (i) that any provision of Part II which relates to the duty to confirm or deny and is not specified in section 2(3) is relevant to the request, or
 - (ii) that the information is exempt information only by virtue of a provision not specified in section 2(3), and
 - (b) at the time when the notice under subsection (1) is given to the applicant, the public authority (or, in a case falling within section 66(3) or (4), the responsible authority) has not yet reached a decision as to the application of subsection (1)(b) or (2)(b) of section 2,
the notice under subsection (1) must indicate that no decision as to the application of that provision has yet been reached and must contain an estimate of the date by which the authority expects that such a decision will have been reached.

- (3) A public authority which, in relation to any request for information, is to any extent relying on a claim that subsection (1)(b) or (2)(b) of section 2 applies must, either in the notice under subsection (1) or in a separate notice given within such time as is reasonable in the circumstances, state the reasons for claiming—
 - (a) that, in all the circumstances of the case, the public interest in maintaining the exclusion of the duty to confirm or deny outweighs the public interest in disclosing whether the authority holds the information, or
 - (b) that, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

- (4) A public authority is not obliged to make a statement under subsection (1)(c) or (3) if, or to the extent that, the statement would involve the disclosure of information which would itself be exempt information.

- (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.

- (6) Subsection (5) does not apply where—
 - (a) the public authority is relying on a claim that section 14 applies,
 - (b) the authority has given the applicant a notice, in relation to a previous request for information, stating that it is relying on such a claim, and
 - (c) it would in all the circumstances be unreasonable to expect the authority to serve a further notice under subsection (5) in relation to the current request.

- (7) A notice under subsection (1), (3) or (5) must—
 - (a) contain particulars of any procedure 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
 - (b) contain particulars of the right conferred by section 50.