

Freedom of Information Act 2000 (Section 50) Environmental Information Regulations 2004

Decision Notice

Date: 24 February 2011

Public Authority: Dorset County Council
Address: County Hall
Colliton Park
Dorchester
DORSET
DT1 1JX

Summary

The complainant submitted six separate information requests to Dorset County Council over a period of three weeks. The Council refused the requests under section 14(1) of the Act because it considered the requests vexatious. The Commissioner finds that two of the requests were for environmental information and therefore should have been dealt with under the EIR. The Commissioner finds that the requests under the Act were vexatious. However, having examined the requests falling for consideration under the EIR, he has concluded that they were not manifestly unreasonable under regulation 12(4)(b) of the EIR. The Council breached regulation 14(3)(a) of the EIR by failing to issue a valid refusal notice in relation to regulation 12(4)(b) to the requests which fell under the EIR. The Commissioner requires the Council to disclose to the complainant that information which was incorrectly withheld under regulation 12(4)(b) or provide a further refusal notice relying upon another exception.

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.
2. The EIR were made on 21 December 2004, pursuant to the EU Directive on Public Access to Environmental Information (Council

Directive 2003/4/EC). Regulation 18 provides that the EIR shall be enforced by the Information Commissioner (the Commissioner). In effect, the enforcement provisions of Part 4 of the Act are imported into the EIR.

Background

3. The complainant had originally submitted a request to the Council in May 2008, concerning roadworks in his area. This request was for details such as cost, contractors employed, safety, audits and government funding. The Council responded to that request and provided the requested information. Subsequently the complainant submitted various follow-up questions, to which the Council also responded.
4. The complainant was not satisfied with the requested information he received as he did not believe that it addressed all his queries, and submitted the six requests which are the subject of this Notice.

The Request

5. The complainant made six requests for information to the Council: on 20 November 2009, 26 November 2009, 2 December 2009, 8 December 2009, 10 December 2009 and 15 December 2009. The requests are summarised below, but are set out in full at Annex 1 to this Notice.

20 November 2009 (Request 1)

6. This request was in two parts. The first part was for copies of invoices submitted to the Council by external contractors in relation to some resurfacing work. The second part was for guidance used by the Council for the good management of external contractors.
7. On 24 November 2009 the Council acknowledged receipt of this request.

26 November 2009 (Request 2)

8. This request was for operating rules relating to the use of certain equipment. At this stage the complainant advised the Council that he intended to submit further information requests.

2 December 2009 (Request 3)

9. This request was for the rules or guidelines under which the Council Auditor operated.
10. On 2 December 2009 the Council acknowledged receipt of requests 2 and 3.

8 December 2009 (Request 4)

11. This request was for the appendices from a report which had previously been provided to the complainant.

10 December 2009 (Request 5)

12. This request was for the names of the Council's new Cabinet members and their responsibilities.

15 December 2009 (Request 6)

13. This request was for organisational information relating to the Council.

The Council's substantive response

14. On 21 December 2009, the Council issued a refusal notice to the complainant in relation to all six requests. The Council advised the complainant that it considered the requests 'vexatious' under section 14(1) of the Act. Therefore the Council refused to comply with the requests.
15. On 24 December 2009 the complainant asked the Council to carry out an internal review of its decision to refuse his request.
16. On 7 January 2010 the Council provided the complainant with information regarding the internal review procedure and who would be carrying it out. The Council also provided information in relation to request 5, namely the name of a Cabinet member and his area of responsibility. The Council referred the complainant to a website¹ which contained information relating to all the other County Councillors, including membership of committees and representative responsibilities.

¹ www.dorsetforyou.com, which acts as a portal to Dorset County Council

17. On 8 January 2010 the complainant advised the Council that he was unable to access this website via the internet as he did not have broadband capability. The complainant repeated his request for a list of all the Cabinet members and their areas of responsibility.
18. Between 8 and 26 January 2010, further correspondence was exchanged between the Council and the complainant. The complainant indicated on 26 January 2010 that he was referring the matter to the Commissioner as he considered that the delay by the Council to provide him with a response to the internal review was unacceptable. However, he did not pursue that aspect of his complaint when he submitted the complaint to the Commissioner.
19. On 28 January 2010 and the Council advised the complainant that the internal review had been carried out. The Council confirmed that a decision had been taken to uphold the previous decision to withhold the information requested by the complainant on the basis of section 14(1) of the Act.

The Investigation

Scope of the case

20. On 1 February 2010 the complainant contacted the Commissioner to complain about the way his requests for information had been handled. The complainant indicated that he did not consider his requests to be vexatious but argued that there was a legitimate interest in disclosing the information he requested. The complainant advised that he had made the requests to highlight the alleged maladministration and breaches of health and safety regulations committed by the Council.
21. On 26 May 2010 the complainant wrote to the Commissioner and provided the Commissioner with further background information. The complainant confirmed that he had submitted a subsequent request to the Council, which was not being treated as 'vexatious'. It was therefore unclear to the complainant why his previous requests were treated as 'vexatious', when this was not the case for his recent request.
22. On 27 May 2010 the Commissioner explained to the complainant that he was unable to take this further request into consideration as his investigation would only be focusing on the requests covered by the original complaint to the Commissioner, which were those submitted to the Council between November 2009 and December 2009.

23. 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

24. On 25 and 27 May 2010 the Commissioner wrote to the Council. The Commissioner asked the Council to provide him with the withheld information, and requested further representations in relation to its handling of the requests. The Commissioner suggested that some of the information appeared to be environmental and asked the Council to explain why this had not been considered under the EIR. The Commissioner also asked the Council to provide him with further arguments as to why the requests were considered vexatious.
25. The Council replied to the Commissioner on 30 July 2010 with the further representations requested. The Council explained that it had considered the EIR, but had concluded that the requested information was not environmental. The Council advised the Commissioner of its view that, if any of the requested information had been environmental, it would have sought to rely on the exception at regulation 12(4)(b) to the extent to which the requested information was environmental.
26. On 10 September 2010 the Commissioner asked the Council for further details of its consideration of the exception at regulation 12(4)(b). The Council provided this on 20 September 2010.

Analysis

Substantive Procedural Matters

Access regime

27. The Commissioner has first considered the extent to which the six requests fell under the Act and the EIR. The EIR relates to environmental information, which is defined at regulations 2(1)(a) – (f) inclusive of the EIR (see the Legal Annex).
28. The Commissioner has examined in detail all of the complainant's requests and has concluded that, with the exception of part 1 of request 1 and request 4, they have been dealt with correctly by the Council under the Act. This is because they are requests for information which relates to costs and the Council's rules, guidelines, policies and procedures. The Commissioner does not consider that any

of this information falls within the definition of environmental information.

29. The Commissioner notes that part 1 of request 1 is for copies of invoices detailing the cost of roadworks. The Commissioner considers that the roadworks are a measure which affects one of the elements of the environment, i.e. land, as roads are part of land and the re-surfacing of these is clearly a measure affecting the land. The Commissioner considers that information regarding the costs of such a measure, i.e. the invoices requested, constitutes environmental information under regulation 2(1)(c) of the EIR. Therefore, the Commissioner concludes that the Council should have dealt with part 1 of request 1 under the EIR.
30. The Commissioner notes that request 4 is for an appendix to a policy, containing an inventory of gullies and other items of highway drainage, also grips and various items necessary for highway repair. It also contains a projected budget provision for such repair. The policy in question is the Council's 2004 Highways policy. This is a policy which outlines the Council's approach to the management and maintenance of local highways. The Commissioner considers that the policy itself is a measure which affects one of the elements of the environment, namely land, as it outlines how the Council intends to exercise its responsibilities in relation to that land, namely the highways. The Commissioner considers that the appendix forms part of the policy and that the policy is environmental information under regulation 2(1)(c) of the EIR. The Commissioner therefore concludes that the appendix is also environmental information under regulation 2(1)(c).
31. The Commissioner is therefore satisfied that part 1 of request 1 and request 4 should both have been dealt with by the Council under the EIR. However, as he is content that the other requests were correctly dealt with by the Council under the Act, his decision covers both access regimes.

Freedom of Information Act 2000

Section 14(1) – vexatious requests

32. Section 14(1) is an exclusion that provides that:

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

33. The first unanswered request which the council considered to be vexatious was dated 20 November 2009. The council's decision in

relation to this request should therefore have been based upon the circumstances that existed as at this date. The Council also considered that a number of further requests made after 20 November 2009 but before the issue of its refusal notice on 21 December 2009 were vexatious. Again the Commissioner considers that only circumstances in existence as at the date of each of the later requests should have been taken into account when deciding if those further individual requests were manifestly unreasonable.

34. However the Council took into account the circumstances as at the date of its refusal notice of 21 December 2009 when refusing all of the requests made between 20 November 2009 and 15 December 2009. By that time several requests had been received on the same issues and it relied on this fact when deciding that all of the complainant's requests were vexatious.
35. In reaching his own decision the Commissioner has firstly considered whether the circumstances as at the date of the request of 20 November 2009, were sufficient to mean that this request was vexatious. In considering the application of section 14(1) to this request he has disregarded any circumstances (such as the receipt of further requests) that only arose after this date. He has then gone on to consider the application of section 14 to each of the later requests made after 20 November 2009.
36. The Commissioner has issued guidance in relation to the issue of vexatious requests². This guidance explains that for a request to be deemed vexatious, the Commissioner will consider the context and history of the request. The Commissioner will also consider the strengths and weaknesses of the arguments presented by the complainant and the public authority against the following five factors:
 - (1) whether compliance would create a significant burden in terms of expense and distraction;
 - (2) whether the request is designed to cause disruption or annoyance;
 - (3) whether the request has the effect of harassing the public authority or its staff;

²http://www.ico.gov.uk/upload/documents/library/freedom_of_information/detailed_specialist_guides/vexatious_and_repeated_requests.pdf

(4) whether the request can otherwise fairly be characterised as obsessive; and

(5) whether the request has any serious purpose or value.

37. The Commissioner does not consider it necessary to consider each of the five factors in every case. The Commissioner has therefore set out below the relevant factors in this case, and the applicable arguments.

Part 2 of the request of 20 November 2009

Does the request constitute a significant burden in terms of expense and distraction?

38. The Commissioner has first considered his own guidance in relation to this factor. When determining whether a request imposes a significant burden, the Commissioner believes that a public authority should:

*"... consider whether complying with the request would cause it to divert a disproportionate amount of resources from its core business. However, where the **only** concern ... is the burden on resources ... it should consider whether it would be more appropriate to apply section 12..."*

39. The Commissioner is also assisted by the Information Tribunal's comments in the case of *Gowers v the Information & London Borough of Camden* (EA/2007/0114). The Tribunal emphasised that previous requests received may be considered in the context of the request in question:

"...that in considering whether a request is vexatious, the number of previous requests and the demands they place on the public authority's time and resources may be a relevant factor" (para 70)

40. It is therefore appropriate for the Commissioner to take into account the complainant's previous interaction with the public authority when making a determination of whether this request represents a significant burden to a public authority as noted above. This means that even if the request does not impose a significant burden when considered in isolation, it may do so when considered in context. Therefore in this case the Commissioner has considered not only the request but the background and history to the request, which has generated a sizeable amount of correspondence between the complainant and the Council.

41. The Council advised the Commissioner that it had received (and continued to receive) a considerable volume of correspondence from the complainant all relating to the same underlying concern. The Commissioner accepts that the request itself, whilst seemingly straightforward when taken in isolation, was part of a pattern of voluminous correspondence which had diverted staff away from their core functions and caused considerable staff time and costs to be expended.
42. The Commissioner has carefully considered the Council's arguments, and the evidence provided by the Council. The Commissioner has seen evidence to support the Council's view that requests generate correspondence, which in turn generates further requests. This imposes a significant burden on the Council as it must deal with the requests and the correspondence and the new requests which often arise as a result of the correspondence.
43. The Commissioner is therefore satisfied that, although the complainant's request may not be complex or burdensome in itself, when taken into the context of the complainant's history and the entirety of his previous correspondence and dealings with the Council on the same underlying issue, it does constitute a significant burden in terms of both expense and distraction.

Can the request be otherwise fairly characterised as obsessive or manifestly unreasonable?

44. The Commissioner has considered whether or not the complainant's request can be characterised as obsessive or manifestly unreasonable. The Commissioner accepts that at times there is a thin line between obsession and persistence on the part of a complainant.
45. The Commissioner has also had regard to the Tribunal's comments in the case of *Ahilathirunayagam v London Metropolitan University* (EA/2006/0070). The Tribunal found the request in that case to be vexatious by taking into account, amongst other things, that
"(iv) The background history between the Appellant and the University...and the fact that the request, viewed as a whole, appeared to us to be intended simply to reopen issues which had been disputed several times before..." (para 32)
46. The Commissioner has therefore taken into account the previous dealings that the complainant has had with the Council when determining whether the request can be correctly characterised as obsessive.

47. The Council states in its letter to the complainant dated 28 January 2010 that the complainant's request can be seen as "part of a pattern of obsessive behaviour". That letter goes on to state that, "the request is in the context of a very high volume and frequency of correspondence" and "seems to be within the context of an attempt to re-open issues that have already been considered....".
48. The Commissioner has carefully considered the Council's assertion that it considers the complainant's request to be an attempt to re-open issues that have already been considered.
49. In his complaint to the Commissioner the complainant has himself stated that the underlying matters with which he is concerned date back to 2006. He referred the Commissioner to a complaint he submitted to the Local Government Ombudsman (LGO) in February 2010 which included the following summary of his underlying concerns " The Complaint is made under 4.1 (Para's 1 & 6) of DCC's procedures: A failure by Officers over years to direct and manage their responsibilities effectively as required by the Council's current Highway Maintenance & Network Policy Plan resulting in 'Neglect, delay, inefficiency, ineffectiveness, bad & unprofessional practice & conduct' in Highways Works in West Dorset over 2006-2009 & when evidenced failing to apply prompt & competent remedy"
50. The Commissioner has established from the detail provided in the complainant's submission to the LGO, that as at the date of this request the Council had already produced three reports addressing these underlying issues, a Preliminary Audit & Action Plan dated December 2008, a Final Audit & Action Plan dated January 2009 and a report from the Director for the Environment to the Highways Panel dated April 2009. The Council has maintained that it is in the context of the complainant's dissatisfaction with the way in which his underlying complaint was dealt with by the Head of Internal Audit that the later requests, commencing in November 2009, were made. It is also apparent from a letter from the complainant to the Council dated 13 October 2009 that, as at the date of the request, the complainant considered that he had been promised a further Quality Assurance and Control report by the end of 2009.
51. The Commissioner accepts that in this context, the continued pursuance of these underlying issues via the submission of the request of 20 November 2009, can fairly be characterised as obsessive or manifestly unreasonable behaviour. He considers that an appropriate course of action at this point would have been for the complainant to have either taken his concerns to the LGO (as he later did) or to await the report that had already been promised to him by the end of

December 2009. In the Commissioner's view it should have been evident to the complainant by this point that little would be achieved by continuing to argue the merits of his underlying complaint directly with the Council when it had already investigated these matters three times, or whilst it was still in the process of preparing its final report.

Does the request have any serious purpose or value?

52. In his submissions to the Commissioner the complainant has emphasised what he considers to be the serious purpose behind this request. He has stated that he wants the information requested in order to establish that proper procedures are in place to avoid the wasting of public funds and ensure the effective management of external contractors.
53. In light of the above the Commissioner accepts that the complainant has a serious purpose in making this request. However the Commissioner must consider whether this stated serious purpose and value is sufficient to mean that the requests cannot be considered to be vexatious.
54. In the Tribunal case of *Coggins v the Information Commissioner (EA/2007/0130)* The Tribunal accepted that the complainant was driven by a genuine desire to uncover a fraud which was not unreasonable and "*...amounted to a serious and proper purpose...*" (para 22). However the Tribunal also said that "*...there came a point when the Appellant should have let the matter drop...there had been three independent enquiries...in the Tribunal's view it [the complainant] was not justified in the circumstances to persist with his campaign....*" (para 25). The Commissioner's view is that at the point that this request was submitted, taking into account that the Council had already produced three reports into these matters and was in the process of producing a fourth and final report for a Review Panel, and that the complainant was aware of the option of taking his underlying complaint to the LGO, the complainant's stated serious purpose was not sufficient to outweigh the arguments detailed above about the obsessive nature and significant burden and distraction that the request imposes. Therefore the Commissioner has concluded that the Council appropriately applied section 14(1) of the Act to part 2 of the request of 20 November 2009.

The later requests made after 20 November 2009

55. The Commissioner has further considered the application of section 14(1) to all of the requests which were deemed vexatious by the council. His view is that the arguments in favour of maintaining the

exemption become significantly stronger with the receipt of each individual further request submitted in pursuance of the same underlying complaint and which continues or escalates the pattern of behaviour already in evidence as at 20 November 2009.

56. In particular the Commissioner notes that the complainant has maintained that in making request 3 on 02 December 2009 he was pursuing "the broader question of governmental and public oversight of Councils." From the evidence he has seen the Commissioner accepts the Council's view that the complainant is pursuing this wider issue partly in order to support his contention that the Council has not properly dealt with his underlying complaint about Highways matters. He therefore considers that this request was submitted in pursuance of the same underlying issue. However, the Commissioner also considers that this broadening of the actual subject matter of the requests supports the view that the complainant is likely to use responses to information requests to identify new areas of enquiry. In the Commissioners view this lends further support to the Council's case that the requests of 2 December 2009 onwards are part of a pattern of obsessive behaviour and that the burden of dealing with them is significant.
57. In considering the later requests the Commissioner has also taken into account the complainant's stated serious purpose in making each of these requests. The complainant has stated these as follows; request 2 was made to ensure that a "serious and urgent safety matter" was addressed, request 3 was made to address the broader question of governmental and public oversight of Councils, request 5 was made to put into the public domain that "Officers are improperly interfering with the democratic process" and request 6 was made to assist in a meeting with "MP and Organisation review". Again the Commissioner accepts that these reasons equate to a serious purpose but, for the same reasons as detailed in relation to part 2 of request 1, he considers that in the circumstances of this case, they are not sufficient to mean that the requests cannot be considered to be vexatious.
58. In light of the above he finds that the additional requests submitted by the complainant and also refused on the grounds of being vexatious under section 14(1) in the council's refusal notice of 21 December 2009, apart from request 4, were also vexatious.

Environment Information Regulations 2004 (EIR)

Regulation 12(4)(b) – Manifestly unreasonable requests

59. Regulation 12(4)(b) of the EIR states that a public authority may refuse to disclose information as far as the request is manifestly unreasonable. While the EIR contains no definition of the term “manifestly unreasonable”, it is the Commissioner’s view that “manifestly” means that a request should be obviously and clearly unreasonable – there should be no doubt as to whether a request is unreasonable.
60. There is no single test for what sorts of requests may be considered to be manifestly unreasonable. Instead, each individual case is judged on its own merits, taking into account all of the circumstances surrounding the request. In the Tribunal case of *Carpenter v Stevenage Borough Council* (EA/200/0046) the Tribunal applied the principles established in relation to section 14 of the Act under regulation 12(4)(b).
61. The Commissioner accepts that part 1 of request 1, and request 4, although requests for environmental information, form part of an ongoing series of requests by the complainant which arise from and generate a voluminous amount of correspondence. As explained above, the Council must then deal with all the correspondence as well as the original request, which places a significant burden on it.
62. Since the Commissioner is satisfied that the requests which fall under the Act are vexatious and, since these requests form part of the same pattern and relate to the same issue as those other requests, it would seem to follow that the Commissioner would be satisfied that these requests should be treated as being manifestly unreasonable under the EIR. However, the Commissioner considers that there is a key difference between the two requests that fall for consideration under the EIR and the requests that he has already considered under the Act.
63. The Council has confirmed to the Commissioner that the information requested under part 1 of request 1, i.e. copy invoices, were provided to the complainant in response to his request of May 2008. The complainant however disputes this and states that he has never received these invoices. The Council has also confirmed to the Commissioner that the appendix requested by the complainant in request 4 was never provided to the complainant despite being part of the 2004 Highways Policy Plan which he had previously requested and received minus the appendix.

64. The Commissioner has asked the Council for any evidence it holds to support its contention that the invoices have already been provided. The Council has not been able to provide such evidence. Although the Commissioner has not been able to establish whether the invoices were sent to the complainant or not, he notes that under the EIR the responsibility lies with the Council to demonstrate that a request is manifestly unreasonable,
65. The Commissioner notes that the Council did not seek to argue that the original request of May 2008 and the original request for the 2004 Highways Policy Plan were manifestly unreasonable, and it therefore follows that the Council should have provided the invoices and appendix in response to these original requests.
66. In light of this the Commissioner considers that, despite his findings under the Act in relation to the other requests, it was not manifestly unreasonable for the complainant to chase up the appendix in December 2009. He therefore finds that the exception at regulation 12(4)(b) is not engaged for request 4.
67. In relation to part 1 of request 1, as the onus is on the Council to demonstrate that the request is manifestly unreasonable, and the Council has been unable to evidence its statement that the invoices had already been provided, the Commissioner finds that the Council have not demonstrated that regulation 12(4)(b) is engaged for part 1 of request 1. This should not be taken to mean that the Commissioner accepts the complainant's statement that the invoices were not sent above the Council's statement that they were. Rather it just reflects that the responsibility to demonstrate that an exception is engaged lies with the Council.

Procedural requirements

68. Regulation 14 of the EIR provides that where a public authority refuses a request for information it shall, within 20 working days after the date of receipt, notify the applicant in writing. The refusal shall specify the reasons not to disclose the information requested and detail any exception relied on.
69. In this case the Council relied on section 14 of the Act in relation to all of the complainant's requests in both its refusal and in the findings of its internal review and it was not until the complaint came to the Commissioner that the Council accepted that it should have applied section 12(4)(b) of the EIR. As such, the Council breached regulation 14(3)(a) in failing to provide a refusal notice in relation to the environmental information in part 1 of request 1 and request 4.

The Decision

70. The Commissioner's decision is that the public authority dealt with the following elements of the request in accordance with the requirements of the Act:

- It correctly refused the requests falling under the Act on the basis that they were vexatious under section 14(1) of the Act.

However, the Commissioner has also decided that the following elements of the request were not dealt with in accordance with the Act:

- The Council breached regulation 14(3)(a) in failing to provide a refusal notice under the EIR in relation to part 1 of request 1 and request 4.
- The Council incorrectly applied section 12(4)(b) to part 1 of request 1 and request 4.

Steps Required

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

- To disclose the information requested in part 1 of request 1 and request 4 to the complainant or provide the complainant with a refusal notice citing a valid exception to disclosing the information under the EIR, other than regulation 12(4)(b).

72. The public authority must take the steps required by this notice within 35 calendar days of the date of this notice.

Right of Appeal

73. Either party has the right to appeal against this Decision Notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals,
PO Box 9300,
Arnhem House,
31, Waterloo Way,
LEICESTER,
LE1 8DJ

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 sent.

Dated the 24th day of February 2011

Signed

**Lisa Adshead
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF**

Annex 1: Requests for information made to the Council

20 November 2009 (Request 1)

" 1st request

Under the terms of the above Act may I please have, within the required timescale, copies of all the invoices rendered to your Council by external contractors for two successive attempts to re-surface the south end of Church Lane, Bradford Peverell:

1st attempt: Commencing 22.10.2007 – 2.11.2007 (Programmed for 2.10.07)

2nd attempt: Commencing 3.3.2008 – 20.3.2008

Correspondence recorded on Council Computers suggests that there may be more than two invoices.

2nd request

A copy of the current 'Instructions/Rules/Guidance used by DCC Department for the Environment for the good management of external contractors including those used specifically within DWO and Footpaths.'

26 November 2009 (Request 2)

".... the current operating rules prevailing in DWO for the operation of Disc Cutters".

2 December 2009 (Request 3)

"This request under the Act is made on the basis that the council Auditor, by virtue of his title, reports under some form of disciplined guidelines. That is to say the title implies that he should report 'without prejudice or favour'.

If this is the case please may I have a copy of those rules/guidelines? If not please so advise me".

8 December 2009 (Request 4)

"May I please have the Appendix/ices referred to in the 2004 Highways Policy Plan not included when my copy was sent under a FoIA request.

It is supposed to contain [page 35] an inventory of gullies and grips".

10 December 2009 (Request 5)

"Please may I have a list of the names of the new Cabinet and their responsibilities?"

15 December 2009 (Request 6)

"Please let me have copies of the organisational line charts of the Office of the Chief Executive, including the Auditor and any related staff; the Director for Environment down to at least Middle Manager level in Client Services (including specialist functions such as the CMO and his team Area Managers etc ...) with DWO and DEC to the same levels.

Can you please include any Management or Financial Accountants who work with the above managers and their line reporting; viz locally or separately through a financial structure to the Head of Finance.

As these should be readily available from Personnel, I would appreciate them before Christmas if you can manage it; if not to the FOI timescale".

Legal Annex

Freedom of Information Act 2000

Section 1 – General right of access to information held by public authorities

- 1(1) 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 14 – Vexatious or repeated requests

- 14(1) Section 1(1) does not oblige a public authority to comply with a request for information if the request is vexatious.

Section 21 - Information accessible to applicant by other means.

- (1) Information which is reasonably accessible to the applicant otherwise than under section 1 is exempt information.
- (2) For the purposes of subsection (1)—
 - (a) information may be reasonably accessible to the applicant even though it is accessible only on payment, and
 - (b) information is to be taken to be reasonably accessible to the applicant if it is information which the public authority or any other person is obliged by or under any enactment to communicate (otherwise than by making the information available for inspection) to members of the public on request, whether free of charge or on payment.
- (3) For the purposes of subsection (1), information which is held by a public authority and does not fall within subsection (2)(b) is not to be regarded as reasonably accessible to the applicant merely because the information is available from the public authority itself on request, unless the information is made available in accordance with the authority's publication scheme and any payment required is specified in, or determined in accordance with, the scheme.

Environmental Information Regulations 2004

Regulation 2 – Environmental information

2 - 90/313/EEC; "environmental information" has the same meaning as in Article 2(1) of the Directive, namely any information in written, visual, aural, electronic or any other material form
on -

- (a) the state of the elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites including wetlands, coastal and marine areas, biological diversity and its components, including genetically modified organisms, and the interaction among these elements;
- (b) factors, such as substances, energy, noise, radiation or waste, including radioactive waste, emissions, discharges and other releases into the environment, affecting or likely to affect the elements of the environment referred to in (a);
- (c) measures (including administrative measures), such as policies, legislation, plans, programmes, environmental agreements, and activities affecting or likely to affect the elements and factors referred to in (a) and (b) as well as measures or activities designed to protect those elements;
- (d) reports on the implementation of environmental legislation;
- (e) cost-benefit and other economic analyses and assumptions used within the framework of the measures and activities referred to in (c); and
- (f) the state of human health and safety, including the contamination of the food chain, where relevant, conditions of human life, cultural sites and built structures inasmuch as they are or may be affected by the state of the elements of the environment referred to in (a) or, through those elements, by any of the matters referred to in (b) and (c);

Regulation 12 - Exceptions to the duty to disclose environmental information

Regulation 12(4) For the purposes of paragraph (1)(a), a public authority may refuse to disclose information to the extent that –
(b) the request for information is manifestly unreasonable;

Regulation 14 - Refusal to disclose information

Regulation 14(3) The refusal shall specify the reasons not to disclose the information requested, including –

- (a) any exception relied on under regulations 12(4), 12(5) or 13; and
- (b) the matters the public authority considered in reaching its decision with respect to the public interest under regulation 12(1)(b) or, where these apply, regulations 13(2)(a)(ii) or 13(3).