

## Freedom of Information Act 2000 (Section 50)

### Decision Notice

Date: 9 August 2011

**Public Authority:** Leicester City Council  
**Address:** New Walk Centre  
Welford Place  
Leicester  
East Midlands  
LE1 6ZG

#### Summary

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The complainant made a request for information under the Freedom of Information Act 2000.

Leicester City Council answered the request late and provided the relevant recorded information incrementally.

The Information Commissioner finds that Leicester City Council breached section 10(1) because it failed to comply with section 1(1) in 20 working days. He requires no remedial steps to be taken in this case.

#### The Commissioner's Role

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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

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2. On 20 October 2010 the complainant asked Leicester City Council ("the Council") for the following information:

*'All information regarding the recent 'market testing' regarding 'market increments/ scarcity supplements.'*

*Who was contacted/compared?*

*Reason for comparing with LCC?*

*Who responded – findings of results and dates received.*

*Method of 'weighting' these results to give the final supplement value etc'*

3. On 22 November 2010 a representative of the complainant wrote to another member of the Council and explained that the response to this request remained outstanding. On 24 November 2010 the complainant also chased the relevant member of staff.
4. On 24 November 2010 the Council issued its response to the request. It provided some information, but explained that other information was being withheld. It was withholding information under section 22(1) (information intended for future publication), section 40(2) (third party personal data), section 31 (prejudice to law enforcement), section 42(1) (legal professional privilege) and section 43(2) (prejudice to commercial interests).
5. On 29 November 2010 the complainant requested an internal review. He believed that the information provided wasn't clear, was unhappy the response was issued outside the time limit and asked for a subset of information to be reconsidered.
6. On 7 December 2010 the Council communicated the results of its internal review. It addressed the complainant's concerns about the clarity of the response, it apologised for and explained the delays and explained that it felt that the subset of information could be appropriately withheld under the same exemptions. However, it did explain that it would make the information withheld under section 22(1) available to the complainant as soon as it was able.
7. On 10 December 2010 the complainant said that he remained concerned about the delays that were experienced and asked the Council what could be done about it. The Council responded on the same day explaining that he could complain to the Commissioner.
8. During the course of the Commissioner's investigation, the Council provided the complainant with a further full response about the outstanding information on 25 February 2011.

## The Investigation

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### Scope of the case

9. On 23 December 2010 the complainant contacted the Commissioner to complain about the way his request for information had been handled.
10. On 21 April 2011 the Commissioner and the complainant agreed that his investigation would focus solely on the delays that had been experienced.

### Chronology

11. On 1 February 2011 the Commissioner wrote to both parties. He confirmed that he had received an eligible complaint and asked the Council to explain its position.
12. On 25 February 2011 the Council wrote to the Commissioner to explain the situation. It confirmed that it had now released further relevant recorded information and provided the Commissioner with a copy of it.
13. On 21 April 2011 the Commissioner and the complainant discussed the case on the telephone. The complainant explained that he was concerned about the delays and wanted a formal decision about them.

## Analysis

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### Procedural Requirements

14. As noted above, this Decision Notice is solely concerned with the delays that were experienced in this case.

### Section 10(1)

15. Section 10(1) states 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'.*

16. In this case it is acknowledged and accepted that the Council failed to process the request within the 20 working days stipulated in section 10(1). It took 26 working days to issue its response.
17. In failing to process the request in 20 working days, the Council failed to comply with section 1(1)(a) (confirmation or denial that it held

information) and section 1(1)(b) (the provision of that information) within 20 working days.

## **The Decision**

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18. The Commissioner's decision is that the Council did not deal with the request for information in accordance with the Act. It breached section 10(1) because it failed to comply with section 1(1) within 20 working days.

## **Steps Required**

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19. The Commissioner requires no steps to be taken.

## Right of Appeal

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20. 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: 0300 1234504

Fax: 0116 249 4253

Email: [informationtribunal@tribunals.gsi.gov.uk](mailto:informationtribunal@tribunals.gsi.gov.uk).

Website: [www.informationtribunal.gov.uk](http://www.informationtribunal.gov.uk)

21. 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.
22. 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 9<sup>th</sup> day of August 2011**

**Signed .....**

**Faye Spencer  
Group Manager – Complaints Resolution  
Information Commissioner’s Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF**

## Legal Annex

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### 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’.*