



**FIRST-TIER TRIBUNAL
GENERAL REGULATORY CHAMBER**

Appellant: John Pope	Tribunal Ref EA/2014/0172
First Respondent: Information Commissioner	
Second Respondent: Derby City Council	

DECISION NOTICE

1. By consent, this decision notice replaces the one issued by the Information Commissioner on 7 July 2014.

Signed: N.J. Warren	Date: 17 December 2014
Chamber President	

**IN THE MATTER OF AN APPEAL TO THE FIRST TIER TRIBUNAL
(INFORMATION RIGHTS)
UNDER SECTION 57 OF THE FREEDOM OF INFORMATION ACT 2000**

EA/2014/0172

B E T W E E N:-

JOHN POPE

Appellant

-And-

THE INFORMATION COMMISSIONER

Respondent

-And –

DERBY CITY COUNCIL

Second Respondent

CONSENT ORDER

Pursuant to rule 37(1) of the Tribunal Procedure (First Tier Tribunal) (General Regulatory Chamber) Rules 2009, upon reading the parties agreed statement (in Annex A),

IT IS ORDERED BY CONSENT THAT:

1. The appeal is allowed.
2. The Decision Notice FS50541229 dated 7 July 2014 to be substituted in the terms set out in Annex B.
3. There is no order for costs

DATED this 10th day of December 2014

Signed:

John Pope
Appellant

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

Legal and Democratic
Services
Derby City Council
Resources Directorate
The Council House
Corporation Street
Derby
DE1 2FS

For and on behalf of the First
Respondent

For and on behalf of the
Second Respondent

ANNEX A

Statement of reasons for consent order

1. This appeal concerned the First Respondent's Decision Notice FS50541229 dated 7 July 2014. That Notice sets out the terms of the original information request at paragraph 4.
2. The information provided to the First Respondent by Second Respondent in respect of this investigation was that the information was not held by the Second Respondent.
3. In the said Decision Notice, the First Respondent decided that in respect of part 6 that no further information was held by the Second Respondent and in respect of part 2 that the Second Respondent does not hold the information.
4. The Appellant appealed against the Decision Notice on 16 July 2014.
5. The First Respondent responded to the appeal on 9 September 2014, stating that at the present time it opposed the appeal and invited the Tribunal to dismiss the appeal. However stated that the Commissioner would be prepared to review his position pending submissions from the Council.
6. On 23 September 2014 Derby City Council applied to be joined to the proceedings.
7. By Direction Notice dated 25 September 2014 Derby City Council were made a party to the appeal and known as the Second Respondent.
8. The Second Respondent discovered during the course of separate disciplinary investigations that it did indeed have some information that it had previously

denied having. Following discovery of this a new search was made of all records which led to additional information being identified and being forwarded to the Appellant on 11 October 2014. Having initially found one file that had data we uncovered further files and records which has led to further disciplinary action against a number of employees, who are also facing investigation by the First Respondent. These investigations are on-going and could result in further action.

9. The Second Respondent responded to the appeal and in light of the letter of 11 October 2014 stated that we would not be opposing the appeal.
10. The Second Respondent wishes to apologise to both the Appellant and to the First Respondent for the information not having been provided when requested. The Second Respondent also acknowledges by failing to provide the information requested at the time has inconvenienced both parties and placed the First Respondent in a difficult position in respect of these proceedings. The Second Respondent would, however, like to assure the parties that further action is being taken in respect of this, namely that there are disciplinary investigations being carried out.
11. For clarity, the Appellant made a freedom of information request on 11 November 2013 to the Second Respondent. The Second Respondent should have provided information to the Appellant by 3 December 2013. At this time the Second Respondent was in possession of some of the material requested but not all of it. By May 2014 the Second Respondent had it in possession all of the material requested but as explained above this was discovered during the course of a separate disciplinary investigation.

12. In view of all the circumstances and subject to the Tribunal's views, the parties jointly submit that it is appropriate for these proceedings to be concluded by way of a consent order, and that it is appropriate for the Tribunal to consider their joint application without holding a hearing (as envisaged by rule 37(2)).

ANNEX B

1. The Second Respondent was in breach of section 1(1)(a) and (b) of the Freedom of Information Act in that it held further information within the scope of the request for information. That information has now been disclosed to the Appellant.
2. No further steps are required to be taken.