

**FREEDOM OF INFORMATION ACT 2000 (SECTION 50)
ENVIRONMENTAL INFORMATION REGULATIONS 2004**

DECISION NOTICE

Dated 26 July 2005

Name of Public Authority: Chester City Council
Address of Public Authority: The Forum
Chester
CH1 2HS

Nature of Complaint

The Information Commissioner (the "Commissioner") has received a complaint which states that on 4 April 2005 the following information was requested from Chester City Council (the Council) under the Freedom of Information Act 2000 (the "Act"):

A Draft Planning Board Decision or information pertaining to the decision for 04/02115/OUT.

It is alleged that no written response has been provided by the Council to the complainant's request for information.

The Commissioner's Decision

Under section 50(1) of the Act, (as amended by the Environmental Information Regulations 2004 (the Regulations)), except where a complainant has failed to exhaust a local complaints procedure, or where the complaint is frivolous or vexatious, subject to undue delay, or has been withdrawn, the Commissioner has a duty to consider whether the request for information has been dealt with in accordance with the requirements of Part 2 and 3 of the Regulations and to issue a Decision Notice to both the complainant and the public authority.

The information requested by the complainant is environmental information as defined in regulation 2.

Regulation 14 (1) states –

“ if a request for environmental information is refused by a public authority under regulations 12(1) or 13(1), the refusal shall be made in writing and comply with the following provisions of this regulation.

(2) The refusal shall be made as soon as possible and no later than 20 working days after the date of receipt of the request.

(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

“ (5) The refusal shall inform the applicant –

- (a) that he may make representations to the public authority under regulation 11; and
- (b) of the enforcement and appeal provisions of the Act applied by regulation 18.”

The Commissioner’s decision is that Chester City Council has not dealt with the complainant’s request in accordance with Parts 2 and 3 of the Regulations in that it has not refused to provide the information in accordance with Regulation 14.

Action Required

In view of the matters referred to above the Commissioner hereby gives notice that in exercise of his powers under section 50 of the Act he requires that Chester City Council shall, within 30 days of the date of this Decision Notice, issue a refusal notice in accordance with Regulation 14 above.

Failure to comply

Failure to comply with the steps described above may result in the Commissioner making written certification of this fact to the High Court (or the Court of Session in Scotland) pursuant to section 54 of the Act, and may be dealt with as a contempt of court.

Right of appeal

Either party has the right to appeal against this Decision Notice to the Information Tribunal (the “Tribunal”). Information about the appeals process can be obtained from:

Information Tribunal	Tel: 0845 6000 877
Arnhem House Support Centre	Fax: 0116 249 4253
PO Box 6987	Email: informationtribunal@dca.gsi.gov.uk
Leicester	
LE1 6ZX	

Any Notice of Appeal should be served on the Tribunal within 28 days of the date on which this Decision Notice is served.

Dated the 26th day of July 2005

Signed:

Richard Thomas
Information Commissioner

Information Commissioner
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF