

## FREEDOM OF INFORMATION ACT 2000 (SECTION 50)

### DECISION NOTICE

Dated 15 November 2005

**Name of Public Authority:** Department of the Environment (Northern Ireland)

**Address of Public Authority:** Room 6-15  
Clarence Court  
10-18 Adelaide Street  
Belfast  
BT2 8GB

#### **Nature of Complaint**

The Information Commissioner (the "Commissioner") has received a complaint which states that on 12 January 2005 the following information was requested from the Department of the Environment (Northern Ireland) (the "DOE(NI)") under section 1 of the Freedom of Information Act 2000 (the "Act"):

*"(i) The total costs to the Planning Service to bring me to a planning appeal regarding ref no....."*

*(ii) The total costs to the Planning Service to bring me to a discontinuance notice regarding ref no. ....*

*This total cost should include work by planning officers and staff preparation for the appeal. All solicitors and barristers fees and three days at a planning appeal plus a further day at a discontinuance notice hearing for a multitude of planning staff"*

It is alleged the DOE(NI) has not provided all of the information requested and has not disclosed the total figures in relation to the above request for information.

## **The Commissioner's Investigation**

The Commissioner put the arguments advanced by the Complainant to the DOE(NI) and also asked the following additional questions:

- (i) Was any other information relating to the Complainant's request for information on the costs of his planning appeal and subsequent discontinuance hearing as stipulated in his letter of the 12 January 2005 ever held on record?
- (ii) If there was, what was this information?
- (iii) What was the date of this information's creation and its deletion
- (iv) Can you provide a record of its deletion and a copy of your record's management policy into such deletion
- (v) Is there any reason why such information (if held or ever held) may be concealed?

The DOE(NI) responded to these questions by way of correspondence dated 26 August 2005 confirming that the Department in relation to the costs referred to by the Complainant in his original request for information (dated 12 January 2005) are those stated in the DOE(NI) response of the 18 May following completion of internal review. Those costs consist of fees plus travel costs paid to the Department's legal representative for legal services in connection with the Planning Appeals Commission Enforcement Appeal Hearing and subsequent Discontinuance Hearing. The DOE(NI) also confirmed that at no time was any other information either created or held by the Department about or relating to its costs in relation to these hearings.

## **The Commissioner's Decision**

Under section 50 of the Act, 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 or abandoned, the Commissioner is under a duty to consider whether the request for information has been dealt with in accordance with the requirements of Part I of the Act and to issue a Decision Notice to both the Complainant and the public authority.

The Commissioner's decision is as follows:

On the 12<sup>th</sup> January 2005, the Complainant requested information relating to the total costs for his planning appeal and discontinuance notice. On the 9<sup>th</sup> of February the DOE(NI) responded with a total figure for legal fees and informed the Complainant that information on staff costs were not kept. The Complainant wrote on the 4<sup>th</sup> March reaffirming his request and asking for confirmation of a total figure he stated was mentioned at a meeting with the Planning Service and himself.

On the 18<sup>th</sup> May 2005 upon completing its internal review the DOE(NI) reaffirmed its initial figure to the Complainant and added to it additional legal costs that had been overlooked. It also confirmed that it does not hold any

other information on costing falling within the scope of the Complainant's request.

The DOE(NI) subsequently confirmed to the Commissioner that the figures it has released to the Complainant are reflective of the total information it holds in relation to the original request for information on the 12<sup>th</sup> January 2005. The DOE(NI) further confirmed to the Commissioner that at no time was any other information falling within the scope of the request either created or held by the DOE(NI), other than that already released.

The Commissioner's decision is that the DOE(NI) has complied with its duties under section 1(1) of the Act.

Section 1(1) states:

*"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."*

However, some of the information pertaining to the Complainant's request was only supplied to the Complainant on 18<sup>th</sup> May 2005 following an internal review. Whilst the Commissioner acknowledges this late communication of information was an error on the part of the DOE(NI); in failing to communicate this information to the Complainant within 20 working days following the date of receipt of the request, the DOE(NI) has not complied with section 10(1) of the Act.

Section 10(1) states:

*"A public authority must comply with section 1(1) promptly and in any event no later than the twentieth working day following the date of receipt."*

## **Action Required**

In view of these matters the Commissioner does not require any remedial steps to be taken by the DOE(NI).

## **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  
Arnhem House Support Centre  
PO Box 6987  
Leicester  
LE1 6ZX

Tel: 0845 6000 877  
Fax: 0116 249 4253  
Email: [informationtribunal@dca.gsi.gov.uk](mailto:informationtribunal@dca.gsi.gov.uk)

**Reference: FS50076778**

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 15th day of November 2005

Signed: .....

Graham Smith  
Deputy Commissioner

Information Commissioner  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF