

## FREEDOM OF INFORMATION ACT 2000 (SECTION 50)

### DECISION NOTICE

Dated 30<sup>th</sup> November 2005

**Name of Public Authority:** Kirklees Metropolitan Council

**Address of Public Authority:** P O Box 1274  
Civic Centre III  
Huddersfield  
HD1 2WZ

#### **Nature of Complaint**

The Information Commissioner (the "Commissioner") has received a complaint from the above person (the "Complainant") which states that on 10<sup>th</sup> January 2005 the following information was requested from Kirklees Metropolitan Council ("the Council") under section 1 of the Freedom of Information Act 2000 (the "Act"):

1. Any recorded information which includes correspondence, files, minutes, contracts, copies of complaints, diary entries and emails from your legal department records.
- 2(a) A total cost to Kirklees Council to dismiss me and uphold the majority of the decision at the employment tribunal.
- 2(b) A breakdown of costs for the above.

He also issued a chaser request for the same information on the 20<sup>th</sup> January 2005.

The Council responded to this request on 21<sup>st</sup> January 2005 enclosing two reports in answer to 2(a) and (b). The Complainant however wrote back to the Council on the 23<sup>rd</sup> January 2005 stating that it had not provided all of the information he felt fell within the scope of his request and indicating that he felt the response should also include:

A total cost, including costed time (and other costs) spent on:

1. The Council's legal matters.
2. all other internal meetings (clearly labelled), including those with union representatives, cross referenced to correspondence or diary entries
3. The return to work meetings
4. witness statement gathering
5. Directions and main hearings at the Employment Tribunal

6. Correspondence, (including postage) to the Complainant from specific officers at the Council plus any others.
7. the outsourcing of the Complainants former role and its extent
8. the total salary paid to the Complainant plus pension, national insurance and any other costs attributable to the Complainant's suspension before dismissal.
9. medical appointments at the health centre
10. the salary plus pension, national insurance and any other costs for the Complainant in a return to work period.

The Council failed to respond to the Complainants response letter until the intervention of the Commissioner's Office.

It is alleged that:

in its totality, the information provided to the Complainant does not amount to a full disclosure of the information he has requested in parts 2(a) and 2(b) of his initial request. Specifically the Complainant alleges:

- a) That the Council has failed to provide an adequate response as regards staff time and should have provided an estimate, if it was unable to provide accurate information,
- b) that the Council has failed to provide an accurate total cost figure in that the figure provided was a subtotal of incomplete figures, (as highlighted above), and
- c) that the Council has calculated point 8 of his second request above using inaccurate dates as regards the period that salary was due,
- d) that the Council did not provide the information falling within the scope of his request within the statutory period of 20 working days as required under section 10 of the Act.

Kirklees Metropolitan Council have argued that majority of the information requested by the Complainant is personal data and is therefore exempt from disclosure under section 40 of the Act.

### **The Commissioner's Duty**

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 Relevant Provisions of the Act

**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.”]

**Section 10(1)** provides that –

“...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”.]

## Consideration of the Complaint

1. The majority of the information requested in parts 2(a) and (b) falls within the scope of the Freedom of Information Act 2000 rather than under the provisions of the Data Protection Act 1998. It relates to general costs and efficiency of the Council rather than to personal information about the Complainant.
2. The Council has provided all information which was held by it in response to the Complainant’s request. Although general information is held by the Council relating to the costs of running a personnel department, information relating to the time spent on the Complainant’s case was not recorded as a separate record, and is therefore indistinguishable from the other, non-associated information. The Commissioner is therefore satisfied that further information is not held by the Council for the purposes of the request.
3. Although all of the information which the Council felt fell within the scope of the request was supplied to the Complainant within the statutory time period, the Complainant’s letter to the Council dated 23<sup>rd</sup> January 2005 stated that he did not think that they had answered his request in full and provided 10 areas of information which he felt should also have been supplied. The Commissioner considers that this clarification letter amounted to a request for the Council to review its response in this matter.
4. The Commissioner also considers that the information requested in points 8-10 of this letter did not form part of the original request for information dated 10/1/05 and that the Complainant’s letter of 23/1/05

amounts to a new request in relation to this information. The Commissioner does recognise however that it makes no material difference to the outcome of this request had the Commissioner read points 8-10 as a clarification of his original request as the Council did not respond to this second letter in any event.

5. The Council failed to respond to the letter dated 23/1/05 until the Commissioner intervened, at which point it confirmed that it did not hold any further information pertaining to sections 1 – 7 of the secondary request, but did however hold information pertaining to sections 8.9 & 10.
6. In addition to providing the response to the Commissioner the Council also wrote to the Complainant on 8<sup>th</sup> July 2005 responding to points 1-10 of the letter of 23/1/05. In doing so it provided the additional information which fell within the scope of parts 8 to 10 of the request.
6. Although there are no statutory deadlines for the length of time a review should take the Commissioner considers that the Council failed to respond to the initial review request within a reasonable time period.
7. Point c of the Complainants request for a decision is not considered herein as it pertains to the Complainant's rights under the Data Protection Act 1998.

### **The Commissioner's Decision**

8. In relation to the request of 10/1/05:
  - The Complainant has not complained about the handling of his request in point 1 and, therefore, the Commissioner makes no comment on this point.
  - In relation to point 2(a), the Council did not comply with its obligations under section 10 of the Act in that it failed, within the statutory period, to deny holding the total figure requested.
  - In relation to point 2(b), the Council complied with the requirements of the section 1 of the Act by communicating to the Complainant all the information regarding such costs that it held.
9. In relation to the request of 23/1/05:
  - The Council failed to act in accordance with its obligations under section 10 of the Act in that it failed within the statutory period to respond at all to points 8-10.

## Action Required

In view of the fact that the Complainant has now received all the information requested the Commissioner hereby gives notice that in exercise of his powers under section 50 of the Act he does not require any remedial steps to be taken by the Council.

## 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: <a href="mailto:informationtribunal@dca.gsi.gov.uk">informationtribunal@dca.gsi.gov.uk</a>
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 30th day of November 2005

Signed: .....

Richard Thomas  
Information Commissioner

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