

FREEDOM OF INFORMATION ACT 2000 (SECTION 50)

DECISION NOTICE

Dated 1st March 2006

Name of Public Authority: Cyngor Cymuned Llandysul
Address of Public Authority: Awel Gerdd
Llanfihangel ar Arth
Carmarthenshire
SA39 9HX

Nature of Complaint

The Information Commissioner (the "Commissioner") has received a complaint which states that on 8th February 2005 the following information was requested from Cyngor Cymuned Llandysul under section 1 of the Freedom of Information Act 2000 (the "Act"):

"... sight of all correspondence concerning the street light at Llyskoed, and the matter of a claim to own the land on which the BT pole that carries this light stands, and any documents in your possession that support your claim of February 2003 that a person has a wayleave for that pole.

... sight of all correspondence relating to this matter between you and the Ceredigion Association of Local Councils and One Voice Wales.

... copies of all correspondence memoranda and any other documentation relating to the Community Paths Scheme."

In a letter dated 24th February 2005, the complainant made it clear that he was requesting "sight of" rather than copies of all the correspondence specified in his request of 8th February 2005.

It is alleged that the Council has breached the Act because it has failed to give effect to the complainant's preference to inspect the information requested.

The Commissioner's Decision

Under section 50(1) 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a local complaints procedure, or where the complaint is frivolous or vexatious, subject to undue delay, or has been withdrawn, the Commissioner is under a duty to consider whether the request for information has been dealt with in accordance with the requirements of Part I of the Act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 in this case is as follows:

The Commissioner considers that the complainant's request for "sight of" correspondence amounts to a preference to inspect those documents. Cyngor Cymuned Llandysul responded to the complainant by letter dated 4th March 2005 advising that copies of the information requested would be disclosed on payment of a fee to cover postage and photocopying at 10 pence per sheet. However, it has declined to allow the complainant to inspect the documents. The Commissioner is of the opinion that by doing so the Council breached sections 1(1) and 11(1)(b) of the Act.

Section 1(1) of the Act 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.”

Section 11(1)(b) of the Act states -

“(1) Where, on making his request for information, the applicant expresses a preference for communication by any one or more of the following means, namely -

- (b) the provision to the applicant of a reasonable opportunity to inspect a record containing the information, ...

the public authority shall so far as reasonably practicable give effect to that preference.”

The Commissioner recognises the difficulties that some smaller Councils have in that they operate from domestic dwellings and are reluctant to arrange the disclosure of information in such situations. However, he is of the view that it should be possible for such Councils to arrange for the disclosure in an alternative appropriate location such as a public library or some other such building. In this case the local Police Station has been suggested as a possible appropriate venue.

The Commissioner is satisfied that in all the circumstances of this case, it would be reasonably practicable to give effect to the complainant's preference to inspect the information requested.

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: Cyngor Cymuned Llandysul shall, within 30 days of the date of this Decision Notice, facilitate the opportunity for the complainant to inspect a copy of the requested information in an appropriate venue and inform the Commissioner that it has done so.

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	

Reference:FS50069396

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 1st day of March 2006

Signed:

Graham Smith
Deputy Commissioner

Information Commissioner
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF