



Freedom of Information Act 2000 (Section 50)

Decision Notice

Dated 31 May 2006

Public Authority: Worcestershire County Council

**Address: County Hall
Spetchley Road
Worcester
WR5 2NP**

Summary Decision and Action Required

The Commissioner's decision in this matter is that the public authority has dealt with the Complainant's request in accordance with Part I of the Act. No remedial action is required.

- 1. Freedom of Information Act 2000 (the 'Act') – Applications for a Decision and the Duty of the Commissioner**
 - 1.1 The Information Commissioner (the 'Commissioner') has received an application for a decision whether, in any specified respect, the Complainant's request for information made to the public authority has been dealt with in accordance with the requirements of Part I of the Freedom of Information Act 2000 (the 'Act').
 - 1.2 Where a complainant has made an application for a decision, unless:
 - a complainant has failed to exhaust a local complaints procedure, or
 - the application is frivolous or vexatious, or
 - the application has been subject to undue delay, or
 - the application has been withdrawn or abandoned,the Commissioner is under a duty to make a decision.
 - 1.3 The Commissioner shall either notify the complainant that he has not made a decision (and his grounds for not doing so) or shall serve a notice of his decision on both the complainant and the public authority.

2. The Complaint

2.1 The Complainant has advised that on 14 January 2005 the following information was requested from the public authority in accordance with section 1 of the Act.

1. Copies of all the notes made by a social worker during and after the first and second visit to [the Complainant's] mother.
2. Copies of all the written reports that were submitted to the Panel that considered [the Complainant's] mother's case.
3. Copies of the minutes of the panel meeting and any other e-mails, letters, notes, memos written by staff within Worcestershire Social Services (WSS) (excluding those already sent to [Redacted Name]) or staff on the panel in relation to [the Complainant's] mother's case.
4. [Information about] [the Complainant's] subsequent complaint about the shoddy, superficial and seriously deficient investigation that [the Complainant] believes WSS carried out.

2.2 On 9 February 2005 the public authority refused to provide the Complainant with the information she requested. The public authority cited the exemption at s.40 of the Act as its basis for doing so. On 25 May 2006 the Complainant appealed against the public authority's refusal of her request. On 23 June 2005 the public authority again refused the Complainant's request, citing the same exemption as it had done previously.

3. Relevant Statutory Obligations under 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.”

4. Review of the case

4.1 On 27 June 2006 the Complainant wrote to the Information Commissioner to express her view that the public authority had not dealt with her request for information properly. In particular, the Complainant asked the Commissioner to contact the public authority to remind it that, in the circumstances, the balance should lie in favour of the disclosure of the information. The Commissioner then contacted the public authority to seek further information about its handling of the Complainant's request.

4.2 It is clear from the nature of the Complainant's request that much of the information it concerns is about her mother and the care she received from

the social services department of the public authority. It is most likely that much of this information will be sensitive and that the Complainant's mother could expect the public authority to hold it in confidence. The Commissioner normally asks to be provided with a copy of disputed information so that he can decide whether it should have been provided to an applicant. However, in this case the Commissioner did not ask to be provided with a copy of the information that the Complainant requested. In this case the Commissioner took the view that it was unnecessary for him to ask to be provided with a copy of the Complainant's mother's personal information merely because another individual had applied for access to it.

- 4.3 The Commissioner's decision in this case is that the Council was not obliged to disclose the information falling within the first three parts of the complainant's request. The Commissioner is satisfied that the information in question constitutes personal data of which the Complainant's mother is the data subject. The release of this information to the Complainant without the consent of her mother would breach the first data protection principle's requirement of fairness and lawfulness in the processing of personal data. It is therefore exempt from disclosure to the Complainant by virtue of section 40(2) of the Act. (The Commissioner has been provided with no evidence that the Complainant's mother has given consent for her daughter to access information about her, or that the Complainant has any legal right to act on her mother's behalf.)
- 4.4 Information falling within the fourth part of the Complainant's request contains a mixture of personal data about the applicant and information about third parties, such as the Complainant's mother. Information about the complainant herself is exempt from disclosure under the Act by virtue of section 40. The Complainant was invited to make a request for access to this information under section 7 of the Data Protection Act 1998 and has been provided with certain information about her.
- 4.5 The release to the complainant of information about the Council's investigation of her allegations about her mother's treatment would inevitably have involved the disclosure of information about her mother and details of her care. In the Commissioner's opinion, therefore, the Council was not obliged to disclose information that was not about the Complainant herself.

5. The Commissioner's Decision

- 5.1 The Commissioner's decision in this matter is that the public authority has dealt with the Complainant's request in accordance with Part I of the Act.

6. Action Required

No remedial action is required.

7. Right of Appeal

7.1 Either party has the right to appeal against this Decision Notice to the Information Tribunal (the "Tribunal"). Information about the appeals process may be obtained from:

Information Tribunal
Arnhem House Support Centre
PO Box 6987
Leicester
LE1 6ZX

Tel: 0845 600 0877
Fax: 0116 249 4253
Email: informationtribunal@dca.gsi.gov.uk

7.2 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 31st day of May 2006

Signed

**Graham Smith
Deputy Commissioner**

**Information Commissioner
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF**