

Freedom of Information Act 2000 (Section 50)

Decision Notice

29 August 2006

Public Authority: Commission for Social Care Inspection

Address: 33 Greycoat Street
London
SW1P 2QF

Summary Decision

1. The complainant requested copy correspondence relating to a care home. The public authority had not provided a response to the request. After contact with the Information Commissioner's Office, the public authority responded, stating that it did not hold all of the information requested. The Commissioner is satisfied that the public authority has now responded fully to the request but they did not comply with all statutory requirements of sections 1 and 10 in the process.

The Commissioner's Role

2. The Commissioner's role is to decide whether a request for information made to a public authority has been dealt with in accordance with the requirements of Part 1 of the Freedom of Information Act 2000 ('the Act'). This Notice sets out his decision.

The Request

3. On 21 March 2005, the complainant made the following request for information from the public authority:

"...copies of the correspondence (including e-mails) between the registration authorities and the company Altruism Ltd. between the dates 1/12/2001 and 6/3/2002 with regard to the care home Weald House St. Neots."

4. The public authority acknowledged receipt of the request by letter of 5 April 2005 and stated that they would respond in due course. The complainant heard nothing further from the public authority.

The Investigation

Scope of the case

5. On 20 July 2005 the complainant contacted the Commissioner to complain about that her request for information had not been responded to.
6. The complainant also raised other issues that are not addressed in this Notice because they are not requirements of Part 1 of the Act.

Chronology of the case

7. A letter was sent from the Information Commissioner's Office to the public authority on 3 November 2005 explaining that the matter had not been allocated to a Complaints Officer at that stage but requesting that the public authority respond to the complainant.
8. Following a letter received from the public authority of 18 November 2005 the Complaints Officer allocated to the case telephoned the public authority on 13 December 2005.
9. During this telephone conversation, the public authority conceded that they had not handled the case effectively. They confirmed that due to lack of communication within their organisation, they had not written to the complainant beyond their initial acknowledgement letter and some documents that may have contained information pertinent to the request made had been lost. The original documents had been sent by post from one office to another to deal with the request and had never arrived.
10. The public authority was asked to ensure that they contacted the complainant and explained the situation. This was not done. During several telephone conversations that followed over the next few months and following a letter from the Information Commissioner's Office (ICO) on the 17th January 2006 stating that a Decision Notice would be drafted if they failed to respond, the public authority repeatedly confirmed that they would write to the complainant. They did not do so until 3 March 2006 when they confirmed that they would write to her again with a detailed response. This was sent on 17 March 2006.

11. Within this letter, the public authority stated to the complainant that they did not hold the information requested and that the reason for this could be because it was never held; was lost in a bundle of papers or lost during a move to temporary accommodation following a flood.
12. The complainant raised concerns about the handling of the matter and that she felt that information may be deliberately being withheld. Further questions were then put to the public authority in a letter of 12 May 2006 to ascertain whether there was sufficient evidence to consider a criminal investigation.
13. The public authority again failed to respond despite being given 20 working days in which to provide a response and a further letter was sent to them dated 4 July 2006. A response was then provided dated 6 July 2006. It was considered that there was not sufficient evidence to further pursue an investigation in accordance with section 77.

Findings of the case

14. The investigation following the complaint received from the complainant in this case established inadequate handling of the initial request by the public authority.
15. The Commissioner is satisfied that the public authority does not hold the information requested either because it was lost or never held.

Analysis

16. The Commissioner has considered the public authority's response to the complainant's request for information.

Procedural breaches

17. **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.”

In this case, the public authority failed to inform the complainant whether they held the information without significant involvement by the Commissioner.

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”.

In this case the public authority failed to respond to the complainant's request for information within 20 working days. The request was made by letter of 21 March 2005 and the public authority did not provide a complete response until 17 March 2006 following the Commissioner's involvement.

The Decision

18. The Commissioner's decision is that the public authority did not deal with the request for information in accordance with the Act.

Steps Required

19. The Commissioner requires no steps to be taken.

Right of Appeal

18. Either party has the right to appeal against this Decision Notice to the Information 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

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

Reference: FS50085712

Dated the 29th day of August 2006

Signed

**Phil Boyd
Assistant Commissioner**

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