



**Information Commissioner's Office**  
Promoting public access to official information  
and protecting your personal information

## **Freedom of Information Act 2000 (Section 50)**

### **Decision Notice**

**Dated 2nd June 2006**

**Public Authority: Devon County Council**

**Address: County Hall  
Topsham Road  
Exeter  
Devon  
EX2 4QD**

### **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 in that it has correctly estimated that it could not respond to the request within the cost ceiling provided in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004.**

- 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  - the application has been withdrawn or abandoned,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 1 December 2005 the following information was requested from the Public Authority in accordance with section 1 of the Act.

“Design Criteria and as built drawings in respect of the pedestrian bridge leading to St Luke’s School in the Pinhoe area of Exeter.”

- 2.2 On 12 December 2005 the public authority wrote to the complainant and stated that, as the information covered by the request was extensive; the complainant should provide some clarification. Section 1(3) suspends the duty to comply with section 1(1) until appropriate clarification has been provided.

- 2.3 In a fax received by the public authority on 14 December 2005 the complainant restated the original request and made a supplementary request for:

- Concrete test results and concrete delivery tickets for St Luke’s Bridge.
- Design criteria for the Bridge Lightning Protection System (LPS).
- LPS electrical test results.

- 2.4 On 22 December 2005 the public authority refused the request on the ground that it estimated that the cost of locating and retrieving the information would exceed the appropriate limit of £450 provided by the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004.

## **3. Relevant Statutory Obligations**

- 3.1 **Section 12(1)** of the Act provides –

“Section 1(1) does not oblige a public authority to comply with a request for information if the authority estimates that the cost of complying with the request would exceed the appropriate limit.”

- 3.2 **Section 12(5)** provides –

“The Secretary of State may, by regulations make provision for the purposes of this section as to the costs to be estimated and as to the manner in which they are to be estimated.”

3.3 **Regulation 3(2)** of the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 provides -

“In the case of a public authority which is listed in Part I of Schedule 1 to the 2000 Act, the appropriate limit is £600.” In effect, such bodies are central government departments, the Houses of Parliament, the Welsh and Northern Ireland Assemblies and the armed forces.

3.4 **Regulation 3(3)** of the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 provides -

“ In the case of any other public authority, the appropriate limit is £450.”

3.5 **Regulation 4 (3)** provides –

“ In a case in which this regulation has effect, a public authority may, for the purpose of its estimate, take account only of the costs it reasonably expects to incur in relation to the request in-

- (a) determining whether it holds the information,
- (b) locating the information, or a document which may contain the information,
- (c) retrieving the information, or a document which may contain the information, and
- (d) extracting the information from a document containing it.”

3.6 **Regulation 4(4)** provides that, for the purpose of estimating the cost of the activities listed in 4(3), the cost of staff time may be assumed to be £25 per hour.

#### 4. **Review of the case**

4.1 The complainant has argued that the public authority failed to provide the information identified in the request.

4.2 The Commissioner contacted the public authority on 11 January 2006 in order to establish the basis for its estimate. The Commissioner asked the following questions:

- Please describe the basis upon which the Council calculated that response to the request would exceed the appropriate limit.
- What is the Council’s estimate of how much information is held and of the number of different files or locations within which the information is held?
- If the Council had to find the information for reasons other than the Act, what steps would you take?

- Is the calculation based upon the assumption that staff in the business area which generated the information or that specialist Freedom of Information Act 2000 (the "Act"), IT or records management staff retrieve the information? Would it make any difference who attempted to locate and retrieve the information?
- 4.3 The public authority responded in a letter dated 10 February 2006 and confirmed that, by their estimates, the volume of information covered by the request was such that complying with the request would mean exceeding the appropriate limit. The as built drawings for the bridge would include architect drawings, drawings relating to the steel fabrication, structural calculations, piling, electrical (including CCTV and lightening protection) and the highway layout. Much of the information is held on a system called "Buzzsaw". The estimate of the time it would take to locate all the drawings relating to the bridge was at least four days. Additionally, the public authority explained that they had advised the complainant to refine their request in its letter of 12 December 2005 and that the complainant did not do this.
- 4.4 The Commissioner approached the public authority again in a letter dated 20 February 2006 and asked what, by way of advice and assistance, had been offered to the complainant. Additionally, the public authority were asked whether they had considered the possibility of communicating such information identified in the request as could be provided within the confines of the appropriate limit.
- 4.5 The public authority responded in a letter dated 8 March 2006 which confirmed that their initial response of 12 December had explained to the complainant that, in order to deal with the request (as the request identified a substantial amount of information) further clarification of the exact requirements of the requestor were required.
- 4.6 The Commissioner contacted the public authority again on 15 March 2006 and asked if they had considered approaching the complainant and offering to assist them further in refining their request.
- 4.7 The public authority responded in a letter dated 25 March 2006 and confirmed that further assistance was not offered because the complainant had made serious allegations about the Council in a series of letters and had already demonstrated an unwillingness (in broadening his initial request) to refine his request. It was felt that, in weighing up its duties under the Act and the burden on the authority's resources against the perceived unwillingness of the complainant to refine their request it would not be reasonable to provide further assistance.

## **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 1 of the Act and, in particular, the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004.

5.2 The Commissioner has reached this view because

- The public authority correctly estimated that the cost of complying with the complainant's request would exceed the Appropriate Limit.
- The public authority suggested that the complainant should refine their request to bring it within the Appropriate Limit.
- In responding to the public authority's suggestion the complainant did not attempt to refine his request but, instead, submitted a broader request.

## **6. Action Required**

6.1 In the light of the above matters, the Commissioner requires no additional steps to be taken by the public authority.

## **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](mailto: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 2nd day of June 2006**

**Signed .....**

Ref: FS50087446

**Phil Boyd**  
**Assistant Commissioner**

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