



Freedom of Information Act 2000 (Section 50)

Decision Notice

Dated 16 May 2006

Public Authority: Oswestry Borough Council
Address: Castle View
Arthur Street
Oswestry
Shropshire
SY11 1JR

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 the light of this decision, the Notice specifies no remedial steps to be taken by the public authority.

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- the application has been withdrawn or abandoned,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 13 July 2005 the following information was requested from the public authority in accordance with section 1 of the Act:

“Can you please tell me how much money Oswestry Borough Council has set aside from right to buy sales from 1979 to 1997? Is this money lined up towards the new super duper leisure centre?”

2.2 In response, the public authority explained to the complainant that it no longer held records from as far back as 1979 for right to buy sales and that the oldest information it held was from 1993/94. The public authority confirmed that from 1993/94 to 1997/98 inclusive, the public authority had received useable capital receipts of £859,000 from right to buy sales. In response to the second part of the complainant’s request the public authority stated that £329,000 of the total useable capital receipts held by the council had been earmarked to part fund the new proposed leisure facility. The public authority explained that it generates capital receipts from other sources and that the total of the useable capital receipts is divided up over various capital projects rather than specific capital receipts being allocated to specific projects. The public authority explained that because of this it was unable to say whether or not how much of the £329,000 related to right to buy sales.

2.3 On 31st August 2005 the complainant made a complaint to the Commissioner which stated that he did not accept that the public authority did not hold information from as far back as 1979 for right to buy sales. He further stated that the public authority had provided him with details of the useable capital receipts it had received from right to buy sales and that he actually required the statutory set aside figures from 1979 to 1997.

3. Relevant Statutory Obligations under the Act

3.1 **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 The complainant's allegations were put to the public authority by letter on 24 February 2006. The public authority responded by supplying the statutory set aside figures from right to buy sales for the years 1993/94 to 1997/98. These were the oldest statutory set aside figures for right to buy sales that were available and were supplied to the complainant as it was felt that, in the absence of any older information, he may have found them of some use.
- 4.2 The complainant was not satisfied with this information and refused to accept that the public authority did not hold information regarding right to buy sales from beyond 1993/94. The public authority was therefore subsequently asked to provide further details of its records retention policy, in respect of information regarding right to buy sales. The public authority was also asked to confirm whether or not the fact that it no longer held information regarding right to buy sales beyond 1993/94 conformed to its own records retention policy.
- 4.3 The public authority responded by explaining that it has adopted general disposal guidelines for local authorities produced by the Records management Society of Great Britain. The public authority provided a copy of these guidelines which clearly state that information regarding right to buy sales may be disposed of after 12 years.

5. The Commissioner's Decision

- 5.1 The Commissioner is satisfied that the requested information is not held by the public authority and that it has dealt with the request in accordance with section 1 of the Act. The public authority has repeatedly stated that it does not hold the requested information and has demonstrated that the fact that it does not hold the information conforms to its record retention policy. Without any evidence to suggest otherwise the Commissioner is satisfied that the public authority do not hold the statutory set aside figures for right to buy sales for the years prior to 1993/94.

6. Action Required

- 6.1 In the light of the matters set out above, the Commissioner requires no remedial 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

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 16th day of May 2006

Signed

**Phil Boyd
Assistant Commissioner**

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