



Freedom of Information Act 2000 (Section 50)

Decision Notice

Dated 31 May 2006

Public Authority: London Borough of Hounslow
Address: The Civic Centre
Lampton Road
Hounslow
TW3 4DN

Summary Decision and Action Required

The Commissioner's decision in this matter is that the Public Authority has not dealt with the Complainant's request in accordance with Part I of the Act in that it has refused the request having incorrectly applied the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004.

The Commissioner requires that the public authority responds to the request according to requirements of section 1 of the Act or, if it considers that the information is exempt, it gives the complainant a refusal notice as required by section 17 of the Act. In the event that section 12 is still cited, the Commissioner requires the public authority to advise and assist the complainants in reframing their request by explaining to the complainants what information could be supplied to them.

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- the application has been withdrawn or abandoned,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 complainants have advised that on 19 March 2005 the following information was requested from the public authority in accordance with section 1 of the Act.

“A directory of employees, working for the London Borough of Hounslow...

...The information should contain the following:

Which department they work for;

Who is their head of department;

What are their e-mail address; and

Their direct telephone and fax number(s).”

- 2.2 On 8 April 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.
- 2.3 The public authority further stated that it did not maintain a directory or any other single document in either manual or electronic form containing all the information requested. It explained that the information was held in no less than three databases and to provide the information would be akin to creating a new database.
- 2.4 On receiving this response, the complainants complained to the Commissioner, but were advised to first exhaust the public authority’s complaints procedure. It was suggested to the complainants that in their request for a review of the first response they make clear that it was not necessary that the information requested take the form of a directory.
- 2.5 The refusal was confirmed on 21 November. The council reaffirmed the fact the information requested was not held in a single place or in any one understandable format. It estimated that the cost of providing the information would be “approximately £4406.84.”

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 **Section 16(1)** provides that –

“It shall be the duty of a public authority to provide advice and assistance, so far as it would be reasonable to expect the authority to do so, to persons who propose to make, or have made, requests for information to it”.]

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 complainants have argued that the public authority could have responded to the request within the appropriate limit.

4.2 Due to continued correspondence from the complainants regarding the internal review, the Commissioner and public authority remained in communication between the complainants’ initial contact with the Commissioner and the public authority’s review.

4.3 On 13 December 2005 a case officer, on behalf of the Commissioner, wrote to the public authority to clarify the reasons for failing to provide the complainants with the information requested. She sought to confirm whether the information requested was in fact held by the public authority, as the first response intimated that this may not be the case. She noted that although he accepted that the directory referred to

in the initial request may not be held, it would seem likely that some of the information listed in the complainants' description of what such a directory might contain would be.

- 4.4 Reference was also made to a public authority's duty under section 16 of the Act to provide advice and assistance. The case officer reminded the public authority that under this duty it would be reasonable to expect it inform the complainants exactly what was held that might meet all or part of the request. Where it was estimated that the cost of complying with the request would exceed the cost limit, the case officer advised the public authority that the above duty would be likely to require it to indicate what could be provided within the cost limit or to advise the complainants how to reframe their request in order that it could be met.
- 4.5 In its response to this letter, the public authority confirmed that it does hold the information requested. It confirmed that it is held in a number of ways on different databases or servers across the Council and that to provide it would exceed the cost limit. It stated that in considering this matter, the Council's Information Technology Department was consulted.
- 4.6 The public authority further stated that were the complainants to refine their request, it would respond accordingly. It commented, however, that because it was not of the view that it was under a duty to provide the information because of the application of section 12, it had not yet considered Data Protection issues, but would do so in its consideration of any such future refined request. It was also suggested that a significant amount of information in relation to contact details of employees was already available on the Council's website.
- 4.7 Having considered the above points, the case officer responded to the public authority on 9 February 2006. She suggested that it appeared unlikely that a public authority such as this could function effectively without having at least some of the requested information accessible under the cost limit. She noted that it is not uncommon for information to be held on several servers and that this alone should not mean that its retrieval would take in excess of eight weeks. The case officer therefore requested a breakdown of the estimation of the cost.
- 4.8 The case officer also suggested that that it appeared that there may be other reasons for refusing to disclose the requested information. She commented that issues relating to personal data had been raised, and reference made to the fact that information was accessible elsewhere. She advised the Council to look again at the request and to reconsider its reasons for refusal.
- 4.9 The public authority responded on 27 February. It explained that it is a large organisation with several thousand employees who work in locations across the borough. It explained that it had approached its IT department to establish whether the information was accessible. It provided to the Commissioner an email exchange between the Corporate Complaints Manager and the ICT Contract Manager and a spreadsheet detailing the cost estimate.
- 4.10 The email exchange indicated that the public authority's telephone system has a directory containing names, relevant departments and extension numbers which

could be retrieved within one hour. It also confirmed that a list of email addresses could be retrieved from the email system – a task that was estimated to take one hour – and suggested that the HR system may hold names of heads of departments. It explained that to provide full telephone numbers would involve further effort and that, in particular, certain offices were not connected to the main telephone system. It suggested that the only way to link the record of these numbers to named individuals would be to manually compile a list. A similar argument was proposed for fax numbers. It made reference to the time associated with merging this data and the cost breakdown listed in some detail each task associated with the electronic retrieval of data.

- 4.11 The public authority did acknowledge in its response that it had a duty to provide advice and assistance to the complainants, and to this end, it enclosed a corporate structure chart showing the senior management of the public authority and listed email addresses and telephone numbers for those named individuals.
- 4.12 The case officer passed this information to the complainants and asked whether they regarded this as a reasonable response to their information request. The complainants replied that they did not. The Assistant Commissioner wrote to the Monitoring Officer of the public authority to confirm whether he upheld the decision to refuse the information request on the grounds that to provide the information would exceed the cost limit. The public authority confirmed that it did.

5. The Commissioner's Decision

- 5.1 The Commissioner's decision in this matter is that the Public Authority has not dealt with the Complainant's request in accordance with the following requirements of Part I of the Act:

Section 1(1) – in that it failed to communicate to the Complainant such of the information specified in his request as did not fall within any of the absolute exemptions from the right of access nor within any of the qualified exemptions under which the consideration of the public interest in accordance with section 2 would allow the Public Authority to refuse access.

- 5.2 The Commissioner considers that failure to comply with section 1 stemmed directly from a failure to properly apply the provisions of the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 when estimating whether it was able to respond to the request within the appropriate limit.
- 5.3 The Commissioner has reached this view because the response from the public authority suggests that much of the information requested could be provided within the cost limit. He is of the opinion the public authority has estimated the costs of creating a directory rather than the costs of retrieving the information requested.
- 5.4 The Commissioner understands that the public authority wishes to refuse disclosure of the requested information to the complainants but does not agree that a refusal on the grounds of cost is reasonable under the circumstances. He does

not accept that a local authority could function without having information of this kind accessible.

5.5 The Commissioner reminds the public authority that the complainants do not necessarily require a directory, but the following information:

- Names of staff
- Staff telephone numbers
- Staff email addresses
- Staff fax numbers
- The departments for which each staff member works
- Names of Heads of Departments

6. Action Required

6.1 In the light of the above matters, the Commissioner requires the public authority, within 30 days of receipt of this notice, to respond to the complainants' request for information according to the provisions of section 1 of the Act, or in the event that it considers that the information need not be disclosed by virtue of an exemption, that it gives the complainant a refusal notice in accordance with section 17 of the Act. In the event that section 12 is still cited, the Commissioner requires the public authority to advise and assist the complainants in reframing their request and by explaining to the complainants what information could be supplied to them.

6.2 The Commissioner acknowledges that some information has been provided to the complainants through his case officer and therefore requires these steps to be taken in respect of that information which has not been provided

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.

Ref: FS50097435

Dated the 31st day of May 2006

Signed

**Richard Thomas
Information Commissioner**

**Information Commissioner's Office
Wycliffe House
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SK9 5AF**