Freedom of Information Act 2000 (Section 50)

Decision Notice

Date 10 September 2008

Public Authority: Medicines and Healthcare Products Regulatory Agency
Address: 1 Market Towers
Nine Elms Lane
London
SW8 5NQ

Summary

The complainant made 5 requests between April 2007 and June 2007 under the Freedom of Information Act 2000 (the "Act") to the Medicines and Healthcare Products Regulatory Agency (MHRA) for information relating to the anti-depressant drug Seroxat. The MHRA deemed these requests vexatious in accordance with section 14(1) of the Act. The Commissioner considered these requests in the context and background in which they were made and has decided that the MHRA applied the Act correctly in refusing to comply with the requests under section 14(1) of the Act. The Commissioner has however found that the Trust breached section 17(5) of the Act as it did not state its reliance upon section 14(1) in relation to the requests labeled FOI 07/140 and FOI 07/142 within 20 working days of those requests being made.

The Commissioner's Role

1. The Commissioner's duty 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

2. The complainant made the following requests which were refused under section 14(1) as being vexatious (the following requests are paraphrased as agreed with the complainant and submitted to the authority) :

FOI 07/140 (request made on 29 April 2007) – Is the MHRA able to confirm the date upon which the risk of suicide was first acknowledged/approved by GlaxoSmithKline(GSK)/MHRA on the Seroxat Patient Advice Leaflet (PIL)?

The complainant asserted that a UK exercise in 2000 identified the risk of suicide and GPs were advised accordingly shortly thereafter. However the complainant also stated that an officer of GSK was publicly arguing the absence of any risk, at least as recently as 2003. If the above is correct, what is the MHRA's position on this peddling of misinformation, whether it be innocent or not?

Furthermore the complainant asked what would be the MHRA's position on the status of an officer of a company, who deliberately mislead the public, as to the nature of a serious adverse event of one of its drugs? Does the MHRA for example possess any sanctions which might be applied or would this be left as a matter for the company concerned? To what extent does the MHRA imagine that the solutions it has at its disposal are adequate to deal with such a scenario (i.e. would it be able to prevent such a thing happening again, if only with respect to the company/officer concerned)?

FOI 07/142 (request made on 30 April 2007) – The complainant stated that the v. 1990 PIL (document was attached with the request) states that *"Seroxat works by relieving depressed mood and associated symptoms such as anxiety"*, if the MHRA is able to establish that this is an authentic SKB document, would it be able to confirm that this is still the claim made of Seroxat by the manufacturer? If it is then what is meant by "relieving", and which "associated symptoms" (of what?) are also relieved, and to what extent the MHRA finds this plausible?

To what extent does the MHRA believe that suicide, withdrawal, foetal malformation, akathisia, e.t.c. are acceptable trade-offs against relief, temporary or otherwise, of symptoms (the nature of which have not been disclosed)?

Request of 29 May 2007 – The complainant asserted that Seroxat is described as a *"hypnotic drug for human use"* on the US Trademark and Patent Web Server. The complainant stated that it is understood that hypnotic drugs are central nervous system depressants, rather like alcohol. The complainant also stated that it is understood that depressants are also acknowledged as likely to cause the type of serious side effects (namely aggression and suicidality, amongst others), that are associated with SSRIs. What is the MHRA's position on this? The complainant reminded the MHRA

that its risk:benefit analysis is founded on the principle that when assessing drugs for licensing of treatment of non-life threatening disorders there will be a much lower tolerance of serious side effects? Did the MCA review the patent when assessing the drug?

The complainant also asked what is the benefit of this drug such that the public should be exposed to these side effects? The complainant also asked at what point it suspected that the drug caused suicidality in patients?

Request of 31 May 2007 – The complainant referred to the following:

http://www.camprecovery.com/hallucinogens.phph
http://www.drug-addiction.com/hallucinogens.htm

The above sources assert that people may become addicted to hallucinogens and that hallucinogens give rise to addiction.

The complainant stated that the EWG was quoting "internationally recognised" authorities that claimed that hallucinogens were not addictive (ICD 10, and others). The complainant asserted that if Seroxat is an hallucinogen then it is addictive apparently by definition.

The complainant therefore queried if Seroxat is not an hallucinogen then why is it bearing that description on the US patent?

The complainant also asked the MHRA again to explain what the benefit of this drug is such that patients should be exposed to these side effects?

Request of 3 June 2007 – The complainant referred to reports of corrupt practices of GSK in Nigeria and other instances from previous years in Italy, Russia, the US and the UK involving allegations of illicit payments made to (mostly health) officials by GSK in return for which those health officials engaged in a variety of unlawful activities. These included the testing of unlicensed drugs without full disclosure to patients. Testing of drugs on children and failing to disclose the true nature of the administration of drugs to parents and guardians and so on.

What has come of these various cases? Is the MHRA familiar with any of the cases mentioned? How were these matters resolved?

Finally the complainant queried again what is the benefit of Seroxat?

3. On 3 May 2007 the MHRA responded to the complainant's requests labeled FOI 07/140 and FOI 07/142. The MHRA refused the requests under section 12 of the Act. It explained that to comply with the requests would exceed the cost limit of £600. As the complainant had made a number of requests it further clarified that under section 12(4)(a) a public authority is allowed to aggregate, for costing purposes, where two or more requests for information have been made by the same person (or from different persons who appear to be acting in concert) for

the same or similar information, within a space of 60 consecutive working days. The MHRA estimated that the complainant's requests for information since February 2007 have required it to spend at least £600 (calculated at £25 per hour). It therefore concluded that this provision applied to the complainant's request.

4. On 8 June 2007 the MHRA responded to the complainant in relation to his requests of 29 and 31 May and 3 June 2007. It explained that it would not answer the requests on the ground that they had become vexatious. It asserted that it has supplied the complainant with the information it holds and is able to provide that is relevant to his requests.

5. On 22 June 2007 the complainant requested an internal review. An internal review was carried out and the results were set out in a report dated 12 September 2007. The MHRA upheld its application of section 14 to the complainant's requests of 29 and 31 May and 3 June 2007. It concluded that it was wrong to apply section 12 to the requests labeled FOI 07/140 and FOI 07/142 and explained that it should have more correctly applied section 14 to these requests also. In explanation of its application of this section it asserted that it had suffered inconvenience and has had to divert a disproportionate amount of resources from its core business to deal with the requests. The MHRA clarified that the requests therefore have imposed a significant burden upon it. Furthermore it explained that the requests can be categorised as obsessive or manifestly unreasonable. It gave numerous pieces of evidence in support within the report as to why it had come to this conclusion.

6. The MHRA explained to the complainant that whilst the Freedom of Information Act Awareness Guidance No 22 does not define obsessive or manifestly unreasonable requests, it indicates that it may be apparent from a pattern of behaviour. The guidance states as follows:

   "It will obviously be easier to identify these requests when there has been frequent previous contact with the requester or the request forms part of a pattern, for instance, when the same individual submits successive requests for information. Although these requests may not be repeated in the sense that they are requests for the same information, taken together they may form evidence of a pattern of obsessive requests so that an authority may reasonably regard the most recent as vexatious".

7. The MHRA further explained that the Commissioner has also found requests to be obsessive where, as in the case of West Midland Transport Executive, there is *"a clear pattern of the complainant using the answer to one request as a starting point for a further request"*. It conceded the complainant has not always used the response of one request as a starting point for another request, however, there was evidence that this has occurred on a number of occasions.

8. The MHRA also referred to case FS50086298 (BBC) in which the Commissioner found that a request could be characterized as obsessive where "*it appears that*

there is no outcome within the realms of possibility that is likely to satisfy the complainant". The MHRA asserted that based upon past correspondence between the parties, it appears to be very unlikely that any response from the MHRA will fully resolve this matter. It also notes that the complainant has stated in an email of 11 July 2007 to the MHRA that *"I (the complainant) tend to regard these things as a dialogue, rather than simple one-off requests for information…".*

9. The MHRA concluded that on the evidence it had set out above and the pattern of behaviour over a number of months it believed the complainant's requests could be regarded as being obsessive or manifestly unreasonable.

10. The MHRA also acknowledged that the original refusal was insufficient as it merely stated that "the requests have now become vexatious" and did not fully explain why the complainant's requests were regarded as such.

The Investigation

Scope of the case

11. On 19 October 2007 the complainant contacted the Commissioner to complain about the way his request for information had been handled. The complainant specifically asked the Commissioner to investigate whether the MHRA's application of section 14 classifying the requests listed in paragraph 2 above as vexatious was correct.

12. The Commissioner also considered whether the Trust had responded to the complainant's request in compliance with section 17(5) of the Act.

Chronology

13. The Commissioner contacted the MHRA on 26 June 2008 in order to discuss its handling of the complainant's request. The Commissioner wished to establish whether section 14 had been correctly engaged. The Commissioner asked the MHRA whether it would like to add anything in support of its assertion that the complainant's requests imposed a significant burden upon it. In particular the MHRA was asked to estimate the time spent or costs accrued in responding to the complainant's numerous requests. Furthermore it was asked to provide any examples of how the requests had affected particular members of staff being diverted from their core tasks and duties.

14. On 14 July 2008 the MHRA responded to the Commissioner. It provided another copy of the report of the internal review, a print out of all of the complainant's freedom of information related emails from 1 February 2007 to 7 March 2008, a print out of all email correspondence (freedom of information related and other correspondence) sent to the MHRA by the complainant between February 2007 and 25 April 2008 and extracts from the complainant's blog concerning this issue

(http://itsquiteanexperience.blogspot.com). It commented further as to why the criteria set out at section 14 of the Act is met in this case.

15. The MHRA asserted that the volume of the requests it received from the complainant from February 2007 to March 2008 demonstrated the significant burden placed upon it. The MHRA highlighted that various employees were involved in considering and responding to the complainant over this period. The complainant usually wrote to several staff members either independently or attaching them into emails with the effect that several members of staff were involved in each request or communication. Furthermore the MHRA stated that the complainant's requests demonstrated a pattern that the complainant often used information received in answer to one request to either ask for further information, clarification, or in an attempt to engage the MHRA in a debate or discussion about the information which had been provided. The MHRA explained that the complainant wrote his requests in such a way that it was difficult to determine whether the complainant was requesting information or engaging in dialogue or discussion or making rhetorical points. The complainant often reworded or repeated requests and it was often unclear to the MHRA whether the complainant was asking for information or opinion.

16. The MHRA explained that it had not calculated the resource or time cost of this involvement as to do so it stated would be difficult and in itself costly. It also asserted that the correspondence between itself and the complainant demonstrated that it responded in depth and in a considerate manner to the complainant before concluding that *"there is no outcome within the realms of realistic possibility that it is likely to satisfy the complainant"* in accordance with a previous case considered by the Commissioner, reference FS50086298.

17. The MHRA contended that it did not consider that the complainant's requests had no serious purpose or value. It explained that it considered the licensing of medical products to be clearly a subject of importance and interest.

18. The MHRA stated that the complainant's requests were designed to cause disruption or annoyance due to the tone and content of the emails. The MHRA stated that the complainant was aware of and was pleased by the disruptive effect of his requests. The MHRA has explained that the complainant regarded this engagement with the MHRA as *"ongoing dialogue rather than simple one off requests for information"*. This *"ongoing dialogue"* relates to various matters associated with Seroxat and the regulations concerning licensing of medical products. The MHRA contended that it is disruptive for it to be forced to engage in such discussion and that the Act relates to information held rather than subjective discussion and opinion.

19. The MHRA also asserted that the complainant's requests have had the effect of harassing the MHRA. The MHRA explained that the complainant's requests do constitute harassment especially when read in the context of his blog. The complainant regularly posted replies from the MHRA on his blog, and made accompanying comments designed to ridicule both the MHRA and individual members of staff.

20. The MHRA affirmed that the complainant's requests can be fairly characterised as obsessive or manifestly unreasonable. It asserted that the voluminous number of requests made under the Act along with the additional email communication associated with them demonstrates this. The same questions were repeated in different ways and posed to different members of staff in the hope that the complainant would receive an answer he wanted to hear rather than the answers the MHRA was able to provide. As previously stated by the MHRA it explained that the complainant regularly used the response to one request to pose another request to the MHRA. The MHRA reiterated that there was no answer *"within the realms of possibility"* that would satisfy the complainant's requests.

Analysis

Procedural matters

Section 14

21. Section 14(1) of the Act states that:

"Section 1(1) does not oblige a public authority to comply with a request for information if the request is vexatious."

The full text of section 14 is available in the Legal Annex at the end of this notice.

22. The Commissioner has produced Awareness Guidance No 22 as a tool to assist in the consideration of when a request can be treated as vexatious. The Commissioner's general approach is to consider whether a public authority has clearly demonstrated whether the requests, would:

i. It would impose a significant burden on the public authority; and
ii. It clearly does not have any serious purpose or value; or
iii. It is designed to cause disruption or annoyance; or
iv. It has the effect of harassing the public authority; or
v. It can otherwise fairly be characterised as obsessive or manifestly unreasonable.

The Commissioner has considered whether the MHRA has met the criteria set out above in its application of section 14(1). In doing so the Commissioner has considered all of the correspondence between the complainant and the MHRA during the relevant period which is from February 2007 up until the request of 3 June 2007.

The Request Imposes a Significant Burden

23. The Commissioner notes from the correspondence that has been provided by the MHRA that between 1 February 2007 and 3 June 2007 the complainant made 27 requests under the Act which generated further extensive email correspondence

between the complainant and the MHRA. All of the requests related to the subject of the anti-depressant drug Seroxat. This includes the five requests which are the subject of this investigation. The MHRA provided responses to all of these requests other than the five that are currently being investigated. The Commissioner accepts that the complainant often used the MHRA's responses to fuel further requests. Furthermore the Commissioner has noted that within this email exchange the complainant made the point that he regarded his correspondence with the MHRA as "dialogue rather than simple one off requests for information".

24. The Commissioner notes the Tribunal decision, Betts v Information Commissioner EA/2007/0109 (19 May 2008), in which it stated that, "Albeit it may have been a simple matter to send the information requested in January 2007, experience showed that this was extremely likely to lead to further correspondence, further requests and in all likelihood complaints against individual officers. It was a reasonable conclusion for the Council to reach that compliance with this request would most likely entail a significant burden in terms of resources".

25. Upon considering the response of the MHRA to the Commissioner and viewing the extensive correspondence generated between the complainant and the MHRA, he accepts that the MHRA often found it difficult to establish what information the complainant was actually requesting. The MHRA therefore often had to spend time scrutinizing the complainant's correspondence to determine what he was requesting before being able to then deal with the requests.

26. The Commissioner has noted that the complainant directed the requests to a number of different members of staff which augmented the burden placed upon the MHRA.

27. Furthermore the Commissioner considers that the MHRA did endeavor to respond to the complainant's numerous requests before coming to the conclusion that the complainant's requests could not be satisfied.

28. The Commissioner therefore considers that the complainant's requests did impose a significant burden upon the MHRA.

The request has no serious purpose or value

29. In analogy to the MHRA's position, the Commissioner does not regard the complainant's requests as without serious purpose or value.

The request is designed to cause disruption or annoyance

30. The Commissioner has considered that the complainant regards his correspondence with the MHRA as "*dialogue, rather than simple one-off requests for information"*. The Commissioner wishes to clarify that the Act does not require

the MHRA to enter into ongoing dialogue with the complainant but to respond to requests for information.

31. Furthermore, the Commissioner notes that in an email dated 8 June 2007 from the complainant to the MHRA, the complainant stated that *"I am delighted that you* [the MHRA} *regard my requests as vexatious".*

32. The Commissioner is satisfied that the above statements made by the complainant, when considered alongside the volume and disparate nature of the correspondence generated during the relevant period, show that the requests could be characterised as designed to cause disruption or annoyance. In coming to this conclusion the Commissioner relied upon an earlier decision notice, FS50151851. In this case the Commissioner acknowledged that quotes taken from the complainant's letters in themselves, taken from lengthy and often unfocused correspondence, do not necessarily reveal the true motivation of the complainant. Nevertheless the Commissioner was satisfied in that case that the quotes, when taken with the volume and disparate nature of the correspondence, the request could be characterised as being designed to cause disruption or annoyance.

The request has the effect of harassing the public authority

33. The MHRA relied upon a blog which is written by the complainant to show that the requests had the effect of harassing the MHRA. The Commissioner is not persuaded that this alone would demonstrate that the complainant's requests would constitute harassment of the MHRA.

The request can be fairly categorised as obsessive or manifestly unreasonable

34. In the Commissioner's view, the test to apply here is one of reasonableness. In other words, would a reasonable person describe the request(s) as obsessive or manifestly unreasonable? The Commissioner's guidance suggests that;

'*It will be easier to identify these requests when there has been frequent previous contact with the requester or the request forms part of a pattern, for instance when the same individual submits successive requests for information. Although these requests may not be repeated in the sense that they are requests for the same information, taken together they may form evidence of a pattern of obsessive requests so that an authority may reasonably regard the most recent as vexatious.*'

35. The Commissioner is of the view that the number of requests which were addressed to different members of staff at the MHRA along with the complainant's tendency to repeat and build upon requests in response to replies from the MHRA during the relevant period demonstrate that the complainant was behaving in an obsessive manner. There was no suggestion that these requests would signal the end of this matter, on the contrary, the complainant's comments that he regards his correspondence with the MHRA as "*dialogue, rather than*

simple one-off requests for information" supported the view that the complainant considers it within his right to continue to make as many requests as he likes in order to continue his dialogue with the MHRA, regardless of the effect this may have on the MHRA in terms of time, expense and distraction.

36. Furthermore as the Commissioner noted in paragraph 21 the MHRA has previously provided a significant amount of information on the safety, efficacy and benefits of Seroxat in response to earlier requests. Amongst various other information the MHRA have explained how it conducts a risk-benefit analysis of a drug and has directed the complainant to other sources which he can readily access which explain this in more detail. It has provided various copies of the Seroxat patient advice leaflet as it has been regularly amended since it was first published in 1996. It provided information as to which study highlighted the possible link to suicide and the time when the possibility of this side-effect was included on the PIL.

37. The Commissioner is aware that at the time of the request the MHRA was in the process of conducting an investigation as to whether GSK had failed to inform the MHRA of information it had on the safety of Seroxat in under 18's in a timely manner. This investigation was being undertaken with a view to a potential criminal prosecution for breach of drug safety legislation. Ultimately the decision taken by Government Prosecutors, based on the investigation findings and legal advice, was that there was no realistic possibility of conviction in that case and that it should not proceed to criminal prosecution. The investigation highlighted a weakness in the drug safety regulation in force at the time which has now been addressed. As the complainant's requests were much wider than merely the effects of Seroxat in under 18's the Commissioner does not consider that the fact that this investigation was ongoing at the time of the requests justifies the complainant's wish to seek the wider information relating to Seroxat.

38. Taking all of the circumstances of the case into account, the Commissioner has noted that the complainant has demonstrated a similar pattern of behaviour to that which the Information Tribunal outlined in the case of Coggins v Information Commissioner EA/2007/0130;

> *"The number of FOIA requests, the amount of correspondence and haranguing tone of that correspondence indicated that the Appellant was behaving in an obsessive manner. It was apparent that this would, over the relevant period, have caused a significant administrative burden on the Council. The Appellant's correspondence was difficult to deal with as it was often very long, detailed and overlapping in the sense that he wrote on the same matters to a number of different officers, repeating requests before a response to the preceding one was received……..The Tribunal was of the view that dealing with this correspondence and his requests would have been a significant distraction from its core functions."*

39. In reaching a decision on this case the Commissioner has considered the the correspondence between the MHRA and the complainant between February 2007 and June 2007, the MHRA's initial refusal letter, the report of the result of the internal review and the MHRA's response of 8 July 2008 to the Commissioner's further questions.

40. Having considered all of the above the Commissioner believes that section 14(1) of the Act has been applied correctly in this case.

. **Section 17**

41. Section 17(5) states that *"a public authority which, in relation to any request for information, is relying on a claim that section 12 or 14 applies must, within the time for complying with section 1(1), give the applicant a notice stating that fact.*

42. In relation to the requests labeled FOI 07/140 and FOI 07/142, the MHRA initially relied upon the section 12 costs exemption rather than section 14(1). Therefore the Commissioner considers that the MHRA did not comply with section 17(5) in relation to its application of section 14(1) to those two requests. It did not issue the complainant with a notice stating its reliance upon section 14(1) within 20 days of those requests being made.

The Decision

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43. The Commissioner's decision is that the MHRA correctly applied section 14(1) as the complainant's requests can be correctly categorised as vexatious within the provisions of the Act.

44. The Commissioner has however decided that the MHRA did not comply with section 17(5) of the Act.

Steps Required

45. The Commissioner requires no steps to be taken.

Right of Appeal

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46. 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@tribunals.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.

Dated the 10th day of September 2008

Signed ……..

Gerrard Tracey
Assistant Commissioner

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

Legal Annex

General Right of Access

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."

Section 1(2) provides that -
"Subsection (1) has the effect subject to the following provisions of this section and to the provisions of sections 2, 9, 12 and 14."

Section 1(3) provides that –
"Where a public authority –

(a) reasonably requires further information in order to identify and locate the information requested, and

(b) has informed the applicant of that requirement,

the authority is not obliged to comply with subsection (1) unless it is supplied with that further information."

Section 1(4) provides that –
"The information –

(a) in respect of which the applicant is to be informed under subsection (1)(a), or

(b) which is to be communicated under subsection (1)(b),

is the information in question held at the time when the request is received, except that account may be taken of any amendment or deletion made between that time and the time when the information is to be communicated under subsection (1)(b), being an amendment or deletion that would have been made regardless of the receipt of the request."

Section 1(5) provides that –
"A public authority is to be taken to have complied with subsection (1)(a) in relation to any information if it has communicated the information to the applicant in accordance with subsection (1)(b)."

Section 1(6) provides that –
"In this Act, the duty of a public authority to comply with subsection (1)(a) is referred to as "the duty to confirm or deny"."

Vexatious or Repeated Requests

Section 14(1) provides that –
"Section 1(1) does not oblige a public authority to comply with a request for information if the request is vexatious"

Section 14(2) provides that –
"Where a public authority has previously complied with a request for information which was made by any person, it is not obliged to comply with a subsequent identical or substantially similar request from that person unless a reasonable interval has elapsed between compliance with a previous request and the making of the current request."

Refusal of Request

Section 17(1) provides that -
"A public authority which, in relation to any request for information, is to any extent relying on a claim that any provision of Part II relating to the duty to confirm or deny is relevant to the request or on a claim that information is exempt information must, within the time for complying with section 1(1), give the applicant a notice which -

(a) states that fact,

(b) specifies the exemption in question, and

(c) states (if that would not otherwise be apparent) why the exemption applies."

Section 17(2) states –

"Where–

(a) in relation to any request for information, a public authority is, as respects any information, relying on a claim-
  (i) that any provision of part II which relates to the duty to confirm or deny and is not specified in section 2(3) is relevant t the request, or
  (ii) that the information is exempt information only by virtue of a provision not specified in section 2(3), and

(b) at the time when the notice under subsection (1) is given to the applicant, the public authority (or, in a case falling within section 66(3) or (4), the responsible authority) has not yet reached a decision as to the application of subsection (1)(b) or (2)(b) of section 2,
the notice under subsection (1) must indicate that no decision as to the application of that provision has yet been reached and must contain an

estimate of the date by which the authority expects that such a decision will have been reached."

Section 17(3) provides that -

"A public authority which, in relation to any request for information, is to any extent relying on a claim that subsection (1)(b) or (2)(b) of section 2 applies must, either in the notice under subsection (1) or in a separate notice given within such time as is reasonable in the circumstances, state the reasons for claiming -

(a) that, in all the circumstances of the case , the public interest in maintaining the exclusion of the duty to confirm or deny outweighs the public interest in disclosing whether the authority holds the information, or

(b) that, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information."

Section 17(4) provides that -

"A public authority is not obliged to make a statement under subsection (1)(c) or (3) if, or to the extent that, the statement would involve the disclosure of information which would itself be exempt information.

Section 17(5) provides that –

"A public authority which, in relation to any request for information, is relying on a claim that section 12 or 14 applies must, within the time for complying with section 1(1), give the applicant a notice stating that fact."

Section 17(6) provides that –

"Subsection (5) does not apply where –

(a) the public authority is relying on a claim that section 14 applies,

(b) the authority has given the applicant a notice, in relation to a previous request for information, stating that it is relying on such a claim, and

(c) it would in all the circumstances be unreasonable to expect the authority to serve a further notice under subsection (5) in relation to the current request."

Section 17(7) provides that –

"A notice under section (1), (3) or (5) must –

(a) contain particulars of any procedure provided by the public authority for dealing with complaints about the handling of requests for information or state that the authority does not provide such a procedure, and

(b) contain particulars of the right conferred by section 50."