

Freedom of Information Act 2000 (Section 50)

Decision Notice

Date: 10 September 2009

Public Authority: Lancashire County Council
Address: Chief Executive's Office
Christchurch Precinct
County Hall
Preston
Lancashire
PR1 8XJ

Summary

The complainant asked Lancashire County Council ("the Council") to provide information relating to the Council's handling of information, complaints officers at the Council and the way their investigations are carried out, and information relating to complaints he had made to the Council. The Council refused one of the requests using the exclusion under section 14(2) and 14(1) and it refused the remaining requests using the exclusion under section 14(1). The Information Commissioner ("the Commissioner") investigated and decided that information relating to complaints made by the complainant represented the complainant's personal data. This information was therefore exempt under section 40(1). Regarding the remaining requests, the Commissioner decided that the Council had correctly refused the requests on the basis that they were vexatious under section 14(1) of the Freedom of Information Act 2000 ("the FOIA"). He found that the Council had breached section 17(5).

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 FOIA. This Notice sets out his decision.

Background

2. An allegation was made in 2006 concerning the complainant. A police investigation found no evidence to substantiate this allegation, Social Services at the Council were informed but no further action was taken. Following this, the

complainant complained to Lancashire Constabulary about their handling of the matter. This complaint was considered by the Independent Police Complaints Commission ("the IPCC") who decided not to pursue the complaint further.

3. Following the above, the complainant contacted the Council on many occasions, mainly via email, in connection with the allegation referred to above, particularly concerning contact between Lancashire Constabulary, Social Services at the Council and the IPCC. The complainant initiated the Council's complaints procedure, raising a variety of concerns about the Council's involvement in the matter including whether the Council had inappropriately communicated false information to Lancashire Constabulary.
4. On 12 October 2007, the Council wrote to the complainant setting out the outcome of stage 1 of its complaints procedure. As the complainant remained dissatisfied, a Complaints Hearing was held on 10 December 2007 and the final outcome was provided to the complainant on 13 December 2007. However, the complainant did not accept this outcome and continued to write to the Council making various serious allegations about its conduct.

The Request

5. The complainant sent six emails to the Council in which he made various information requests dated 5 May 2008, 23 July 2008, 12 August 2008, 21 August 2008, and 27 August 2008 (two on this date). The details of the requests can be found in Annex A at the end of this Notice.
6. On 11 June 2008, the Council responded to the request made on 5 May 2008. It stated that it had decided to refuse the request under section 14(2) of the FOIA on the grounds that it was a repeated request for substantially similar information.
7. The complainant requested an internal review of the Council's decision on the same day.
8. The Council completed its internal review on 16 June 2008. The Council stated that it had considered the request and its refusal, including the previous request dated 25 July 2007 and the Council's response dated 16 August 2007 which had led to its decision to refuse the request under section 14(2). The Council stated that it did not consider that a reasonable interval had elapsed since the request on 25 July 2007. The Council stated that it had therefore decided not to uphold the complainant's appeal. It also added that it had decided to refuse the request for information under section 14(1) of the FOIA on the grounds that the request was also vexatious.
9. Following the requests for information made on 23 July 2008 and 12 August 2008, the Council wrote to the complainant on 14 August 2008. It stated that it considered that the recent request (it seems that this was a reference to the request on 23 July 2008) was vexatious under section 14(1). It advised the complainant that it did not intend to respond to this or any other similar requests

- submitted in the future. It also advised the complainant to direct any complaint about its response directly to the Commissioner.
10. On 19 August 2008, the complainant wrote to the Council asking whether his request for information on 12 August 2008 had been received. On the same day, he wrote to the Council again asking it to conduct an internal review of its response dated 14 August 2008.
 11. On 21 August 2008, the complainant requested further information.
 12. On 26 August 2008, the complainant wrote to the Council asking it to ensure that it completes an internal review as requested on 19 August 2008. He also stated that he had not received an acknowledgement to his requests on 12 August 2008 and 21 August 2008.
 13. The complainant submitted more requests in two separate emails on 27 August 2008.
 14. On 2 September 2008, the complainant wrote to the Council reminding the Council of the date he expected to receive its response to the two emails dated 27 August 2007.
 15. The Council did not reply to any of the complainant's correspondence following its response dated 14 August 2008.

The Investigation

Scope of the case

16. On 16 June 2008, the complainant contacted the Commissioner to complain about the way his request for information dated 5 May 2008 had been handled. The complainant specifically asked the Commissioner to consider whether the Council had correctly refused his request using the exclusions under section 14(1) and 14(2) of the FOIA.
17. On 26 September 2008, the complainant made another complaint to the Commissioner about the information he had requested on 23 July 2008, 12 August 2008, 21 August 2008, and 27 August 2008. He asked the Commissioner to consider whether the Council had correctly refused to provide the information he had asked for on 23 July 2008 using the exclusion under section 14(1). He also asked the Commissioner to consider the Council's refusal to respond to the requests for information he made subsequently.

Chronology

18. Following a standard letter from the Commissioner dated 17 July 2008 informing the Council that there had been a complaint, the Council wrote to the

Commissioner on 22 September 2008 and provided further rationale in support of its decision to refuse the requests.

19. On 28 May 2009, the Commissioner sent a standard email to the Council asking for information that would help him to consider the complaint.
20. On 17 June 2009, the Commissioner wrote to the complainant setting out his understanding of the two complaints above. He asked the complainant to confirm his continued interest in pursuing the complaint and that the details of the complaint had been accurately reflected in the Commissioner's letter.
21. The complainant emailed the Commissioner on 22 June 2009. The Commissioner understood from this email that he had correctly described the nature of the complaint.
22. On 25 June 2009, the Council responded to the Commissioner's standard email and supplied some supporting information.
23. On 6 July 2009, the Commissioner wrote to the Council setting out the details of the complaint. He stated that he was not of the view that the request dated 5 May 2008 had been correctly refused using the exclusion under section 14(2). The Commissioner also asked the Council to outline in more detail why it considered the requests were vexatious in line with the Commissioner's published guidance. He asked the Council to supply documentation illustrating the background and context to the requests.
24. The Council responded to the Commissioner on 31 July 2009. It provided some further rationale and also a large amount of the complainant's correspondence to illustrate its argument that the requests were vexatious.
25. The Commissioner wrote to the Council again on 11 August 2009 asking it to consider whether some of the information requested was the complainant's personal data.
26. When the Council did not respond by the deadline set, the Commissioner telephoned the Council on 1 September 2009. He was told that the Council was experiencing difficulties in dealing with the complainant's constant correspondence to the extent that it had not had the time to respond to the Commissioner. The Council was unable to commit to a new deadline when it would respond to the Commissioner.

Analysis

Exemption

Section 40(1)

27. Although the Council did not rely upon the exemption at section 40(1) of the Act, the Commissioner has decided that it is appropriate for him to consider its application in this case.
28. Section 40(1) of the FOIA provides that any information to which a request for information relates is exempt if it constitutes personal data of which the applicant is the data subject. Personal data is defined in the Data Protection Act 1998 ("the DPA") as any information relating to a living and identifiable individual.
29. The information requested in point 2 of the complainant's email on 21 August 2008 and in the two emails dated 27 August 2008 relates to the Council's investigations of the complainant's complaints. The Commissioner is therefore satisfied that this information relates to the complainant and would be his personal data. As such it is exempt under section 40(1) of the FOIA.

Substantive Procedural Matters

Section 14(2)

30. 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 the previous request and the making of the current request.
31. The previous request in this case was made on 25 July 2007 (see Annex B) and the request to which section 14(2) had been applied was made on 5 May 2008. Both concerned access to information regarding the handling of personal data by the Council. The Council advised the Commissioner that its response to the complainant had been that no such policy was held as the DPA and associated legislation represent the "policy" to which it works.
32. The Commissioner's view is that he does not accept that the request was correctly refused under section 14(2) in this case because he considers that the time in between the requests was a "reasonable interval". The term "reasonable interval" is not defined in the FOIA and may vary depending on the circumstances. In this case, nearly a year had passed and this is clearly ample time for the Council to implement new policies concerning the handling of personal data.

Section 14(1)

33. As detailed above the Commissioner found that some of the information requested was exempt under section 40(1) of the FOIA. His considerations in this section of the Notice regarding the application of section 14(1) therefore only concern the requests made in emails dated 5 May 2008, 23 July 2008, 12 August 2008, and 21 August 2008 (except for point 2).
34. Section 14(1) provides that public authorities do not have to comply with vexatious requests. In deciding whether the complainant's requests were vexatious, the Commissioner will consider the following questions as set out in his published guidance entitled "Vexatious or repeated requests"
- Could the request fairly be seen as obsessive?
 - Did the request harass the public authority or cause distress to staff?
 - Would compliance with the request impose a significant burden in terms of expense and distraction?
 - Were the requests designed to cause disruption or annoyance?
 - Did the request lack any serious purpose or value?

Could the requests fairly be seen as obsessive?

35. The background issue which led to the complainant making information requests and submitting other correspondence over a long period of time has been set out in the "Background" section of this Notice.
36. The Council's position is that the requests were clearly obsessive in nature given the Council's lengthy past dealings with the complainant. As outlined in the Commissioner's published guidance, public authorities may take account of the context and history of a request when deciding whether it is vexatious. The guidance states the following:
- "A request may not be vexatious in isolation, but when considered in context (for example if it is the latest in a long series of overlapping requests or other correspondence) it may form part of a wider pattern of behaviour that makes it vexatious".
37. The Council stated that the complainant had submitted a large amount of correspondence to the Council since March 2007. The Commissioner has seen a selection of the complainant's correspondence. He notes from this evidence that the complainant frequently contacted the Council at regular intervals multiple times within the same month. As well as the frequency of the contact, the Commissioner notes that over the period of time in question, the complainant's correspondence had been voluminous. The evidence also showed that the complainant had made a number of other requests for information from the Council before the Council took the decision to refuse the requests which are the subject of this investigation. It is the Commissioner's view that this level of contact was indicative of the complainant's obsessive approach.

38. It was clear that all the correspondence sent by the complainant stemmed from his original concern about communication that the Council had had with Lancashire Constabulary and the IPCC. The Commissioner's experience has shown that many of the requests he has previously found to be obsessive have been set in the context of a longstanding grievance or dispute. He acknowledges that a request will not necessarily be vexatious because a complainant has sent a series of correspondence and requests in relation to a background grievance. In some cases, it will be possible to justify the contact as reasonable persistence.
39. The evidence shows that the complainant was very concerned about contact which he believed had occurred between Lancashire Constabulary, the IPCC and the Council relating to the allegation made about him. This is entirely understandable. When he approached the Council about this matter, it initially stated that it had no evidence that there had been such contact. It is only when the complainant approached Lancashire Constabulary and the IPCC independently to obtain details of the contact that the Council conceded that there had in fact been contact. Again, it is understandable that the complainant would wish to pursue this matter to establish the precise details of the contact and to complain about the Council's initial failure to confirm that this contact had in fact occurred. However, the question for the Commissioner is not whether the complainant was ever justified in pursuing the matter in general, it is whether the requests he made were obsessive by the time he made them in view of what had already happened by then.
40. The Commissioner notes that the Council demonstrated its willingness to engage with the complainant over many months as it was in contact with the complainant from March 2007 onwards. The Council responded to all of the complainant's information requests prior to the requests which are the subject of this complaint and provided the information it held with the exception of a request on 29 January 2008 which the Council considered was vexatious. The Commissioner also notes that in October 2007 the Council met with the complainant in person to discuss his concerns at which point the complainant submitted a list of 16 questions. In its detailed stage 1 response dated 12 October 2007, the Council responded to all of the complainant's questions. In brief, it concluded that it had not breached the DPA by communicating information inappropriately or falsely. It explained the circumstances of the communication and what was said and offered to clarify this with the relevant parties. The Council also acknowledged that it failed to establish that there had been contact initially and it apologised for this.
41. The Council also held an Appeals and Complaints Committee Hearing on 10 December 2007 at which the complainant was permitted to attend and personally make his own representations, having provided the Council with a list of a further 110 questions. Following this, the Committee set out its position. It apologised again for the Council's failure to establish that the disputed contact had occurred. It noted that the complainant had made a complaint to the ICO alleging that the Council had breached the DPA which had not been upheld. It stated that it was a matter for the complainant whether he wished to contest the Commissioner's view and that it would be inappropriate for the Council to comment any further. The Council also acknowledged that its record keeping on this occasion had been deficient and it stated that it would be stressing to the relevant department the

importance of good record-keeping. It made it clear that the complainant had now exhausted the Council's complaints procedure. It stated that if the complainant remained dissatisfied he could consider contacting the Local Government Ombudsman ("the LGO").

42. As already mentioned in the above paragraph, by this time the complainant had been provided with the outcome of a separate complaint considered by the Commissioner relating to the complainant's allegation that the Council had breached the DPA. The Commissioner's conclusion was that there was no strong likelihood that the Council had breached the DPA. The Council also explained to the Commissioner that in January 2008, the General Social Care Council decided not to pursue a complaint made by the complainant relating to three social workers involved in this matter.
43. Despite the above, the complainant continued to submit regular emails to a variety of Council staff members, including councillors and the Chief Executive. He also made the requests which have formed the subject of this complaint. Having considered the nature of the complainant's contact with the Council, it was the Commissioner's view that there was no reasonable prospect of being able to satisfy the complainant in this case. Indeed, the evidence tends to show that engagement with the complainant often only served to generate further questions and allegations. As an example, following the outcome of stage 1 of the Council's complaints procedure in which the complainant was supplied with responses to the 16 questions he had posed, the complainant submitted a further 110 questions.
44. The Commissioner has therefore concluded that a number of factors support the Council's position that the requests were obsessive in this case; the frequency and volume of contact from the complainant stemming from the same grievance, the evidence of the Council's reasonable engagement with the applicant in an attempt to resolve the problems, the fact that the complainant continued to send correspondence and requests to the Council despite the outcome of two complaints to other organisations and the Council's clear statement that it could not assist the complainant any further and the indication that there was no reasonable prospect that the Council would be able to satisfy the complainant. In the circumstances, the Commissioner does not consider that the complainant's contact with the Council in relation to this matter could be described as reasonable persistence and he has concluded that the requests could fairly be described as obsessive.

Did the requests harass the Council or cause distress to its staff?

45. The Council argued that the requests were designed purely to have the effect of harassing the Council. The Commissioner has considered this point further under the heading "Were the requests designed to cause disruption or annoyance?" Under this heading, he has focused on whether the requests had this effect rather than whether that was the complainant's intention.
46. In support of the requests having the effect of harassing the Council, the Council provided the Commissioner with a bundle of correspondence from the

complainant highlighted to show occasions when the Council considered that the complainant had adopted an aggressive, accusatory and harassing tone in correspondence relating to this matter. The evidence shows that the complainant's correspondence was littered with many examples of language which would have had the effect of harassing the Council's staff. The complainant frequently wrote to the Council accusing it at various times of misconduct, lying, negligence, corruption, incompetence, being sleazy and arrogant, engaging in illegal activities, and deliberately failing to keep proper records. To give one example of the way in which the complainant wrote to the Council, in an email following the Council's stage 1 complaint response, the complainant wrote:

"Thank you for your response. I can confirm that I am staggered. It constitutes the best historical rewrite I have ever had the misfortune to read. This blatant lying has to stop. However your "response" did result in a few chuckles. [name of council officer] has clearly told you a pack of lies and you have accepted it all without question...you are all totally bent...This is a total scandal and your investigation is a criminal cover up".

47. To give another example, in an email dated 18 October 2007 which was copied to a number of council officers, the complainant wrote:

"I am afraid that this is the best example of "PULL THE OTHER ONE I HAVE EVER ENCOUNTERED" and I do quite enjoy Beadle's About. However if Lancashire County Council persist in this crass attempt at a cover up and suspiciously corrupt conspiracy then matters will become much, much worse".

48. Following the Complaints Hearing on 10 December 2009, the complainant wrote to the Council in the following terms stating he would not accept the apology and accusing the Council further of being corrupt and lying.

"Can I please confirm that I will not be accepting the apology contained therein because the body corporate as a whole is a lying, self-serving and corrupt sham? This is one thing that the body as a whole has in common with [name of three council officers] etc etc".

49. As is clear from the above, the complainant often wrote in such a way that would have had the effect of harassing any reasonable public authority. The Commissioner notes from inspecting the correspondence that many of the complainant's emails and letters were long, involved and that some comments were highlighted in bold, underlined or written in capitals (as above) to accentuate certain comments. Additionally, the complainant often made very serious allegations, singling out individual officers. At various times the complainant threatened to take legal action and engaged a solicitor who was in contact with the Council. The complainant's comments generally tended to indicate that the Council would not be able to satisfy him and that his behaviour would continue to escalate. In the Commissioner's view, these factors would have increased the harassing effect of the correspondence.

Would compliance impose a significant burden in terms of expense and distraction?

50. The FOIA was enacted to assist people in seeking access to information held by public authorities. However, it was not the intention for public authorities to be distracted unreasonably from their many other important duties or for public money to be spent unproductively.
51. Having considered a selection of the complainant's correspondence, it is clear to the Commissioner that dealing with the complainant's correspondence would have imposed a significant administrative burden on the Council which would have used up significant resources. The complainant has been in contact with the Council from the beginning of 2007 until the present, submitting a large number of emails and other correspondence. As already described, the Commissioner noted that the complainant's correspondence was often long, involved and difficult to follow and contained various serious allegations.
52. Based on the evidence he has seen, the Commissioner accepts that responding to the requests in question, when seen in the context of the previous correspondence, would have imposed a significant burden in terms of expense and distraction upon the Council.

Were the requests designed to cause disruption or annoyance?

53. As discussed in the Commissioner's published guidance, this factor relates to a requester's intention and can therefore be difficult to prove.
54. Although the Council stated that it had formed the view that the requests were designed purely to cause further burden and harassment, it did not present the Commissioner with any specific arguments to support this. It could be argued that the complainant was seeking access to recorded information that he believed could help him to challenge the Council's position further. Although the Commissioner can understand why the Council may have gained the impression from comments made by the complainant (such as the one set out in paragraph 44 of this Notice) that it was the complainant's intention to cause annoyance and disruption, in the absence of any specific argument from the Council that the requests were designed to cause these problems, the Commissioner is unable to agree that this factor applies in this case.

Did the request lack any serious purpose or value?

55. Again, the Council presented no specific argument in support of this factor being met and, as already stated in the paragraph above, it could be argued the complainant was seeking access to recorded information that he believed would help him to challenge the Council's position further. The complainant had clearly exhausted his route of appeal at the Council, and his allegations that the Council had breached the DPA had already been considered independently by the Information Commissioner. Whilst the Commissioner accepts that this does not mean that the requests could not have had the serious purpose of helping the complainant to make complaints to other bodies, such as the LGO he considers

that the fact that the DPA allegations had already been independently considered reduces the value of the request to some extent. However, although the value of the request may be reduced, he does not consider this sufficient reason to agree that this request lacked any serious purpose or value.

56. The Commissioner has also considered the request in the light of the following comments of the Information Tribunal in *Coggins v the Information Commissioner* EA/2007/0130.

“...the Tribunal could imagine circumstances in which a request might be said to create a significant burden and indeed have the effect of harassing the public authority and yet, given its serious and proper purpose ought not to be deemed vexatious...”

In this case there was no evidence presented to the Commissioner that would suggest that any serious purpose or value the requests had was sufficient enough to mean that, despite his other findings, the requests should not be considered to be vexatious.

Were the requests vexatious?

57. Taking into account the above factors, the Commissioner reached the conclusion that on balance the requests were vexatious when considered in the context of the complainant's previous behaviour. Although it is clear to the Commissioner that the complainant had genuine concerns about the Council's actions, it was also clear from the evidence that the complainant pursued his concerns to an unreasonable extent leading to the harassment of the Council's staff.

Procedural Requirements

58. The complainant requested information on 5 May 2008 via email but the Council did not issue a refusal notice for this request until 11 June 2008. Section 17(5) of the FOIA provides that when a public authority is relying on a claim that section 14 of the FOIA applies it must give the applicant a notice stating that fact within 20 working days. As the notice relying on section 14(2) was issued outside of 20 working days, the Council breached section 17(5) of the FOIA.
59. Additionally, when the Council completed its internal review on 16 June 2008 it stated that it had decided to apply section 14(1) to the request. As the Council failed to rely on this exclusion within 20 working days, it also breached section 17(5) for this reason.
60. In its refusal notice on 14 August 2008, the Council stated that the request (dated 23 July 2008) related to a matter that had already been considered exhaustively under the Council's complaints procedure. It made it clear that it did not intend to deal with any other requests submitted by the complainant connected to this matter. Section 17(6) of the FOIA states that a public authority does not need to issue a notice stating its intention to rely on section 14 if it has already given the applicant such a notice and it would in all the circumstances be unreasonable to expect the authority to serve a further notice. The Commissioner considers that in

the circumstances of this case, it would not have been reasonable for the Council to serve a further refusal notice stating its intention to rely on section 14(1) in respect of the other similar requests it received.

The Decision

61. The Commissioner's decision is that the Council dealt with the following elements in accordance with the requirements of the FOIA:
- It correctly relied on section 14(1) in respect of the requests made on 5 May 2008, 23 July 2008, 12 August 2008 and the requests made in the email dated 21 August 2008 which the exception of point 2.
 - It correctly relied upon 17(6) to avoid the need to issue any more refusal notices under section 14(1) following its notice on 14 August 2008.
62. However, the Commissioner has also decided that the following elements were not dealt with in accordance with the FOIA:
- It incorrectly applied section 14(2) to the request dated 5 May 2008
 - It issued a refusal notice on 11 June 2008 outside of the 20 working days allowed and therefore breached section 17(5)
 - It relied on section 14(1) for the first time in its internal review following the refusal on 11 June 2008 and therefore breached section 17(5) for failing to rely on this exclusion within 20 working days

Steps Required

63. The Commissioner requires no steps to be taken.

Other matters

64. Although they do not form part of this Decision Notice the Commissioner wishes to highlight the following matters of concern:
65. During a telephone conversation on 1 September 2009, the Council stated that it had not been able to respond to the Commissioner because of the demands of dealing with the complainant's constant correspondence. Although the Commissioner appreciates that public authorities may occasionally genuinely require additional time to respond to his correspondence, the Commissioner was concerned to note in this case that the Council failed to contact the Commissioner to explain this situation and that it refused to commit to a firm deadline for responding. The Commissioner trusts that the Council will make improvements in

the future to ensure that it is able to respond to the Commissioner's letters in a timely manner and commit to reasonable deadlines.

66. Section 7 of the DPA gives an individual the right to request copies of personal data held about them. This is referred to as the right of Subject Access. The Commissioner notes that point 2 of the request of 21 August 2008 and the two emails dated 27 August 2008 should have been dealt with as subject access requests under section 7 of the DPA from the outset and he would encourage public authorities to consider requests under the correct access regime at first instance.
67. The Commissioner will now go on to consider whether or not to make an assessment under section 42 of the DPA. However, this consideration will be dealt with separately and will not form part of this Decision Notice, because any assessment under section 42 of the DPA that might take place would be a separate legal process from the consideration of a complaint under section 50 of the FOIA.

Right of Appeal

68. 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.
Website: www.informationtribunal.gov.uk

If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.

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 2009

Signed

**Lisa Adshead
Senior FOI Policy Manager**

**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.”

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(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.”

Personal information

Section 40(1) provides that –

“Any information to which a request for information relates is exempt information if it constitutes personal data of which the applicant is the data subject.”

Annex A

Request on 5 May 2008

“Please provide me with all the Lancashire County Council’s written procedures, protocols and policies in relation to information sharing with other public authorities”.

Requests on 23 July 2008

“1/ Can you please identify the controls and the clear lines of accountability in place in order to safeguard the personal information that Lancashire County Council holds and shares.

2/ Can Lancashire County Council please supply all information that demonstrates that the Council acts in line with the principle of minimising the amount of data collected and used and how it collects and shares only as much personal information as is essential and stores it only for as long as is necessary.

3/ Can you please supply information as to how Lancashire County Council train their staff to understand the risks of handling personal information and to meet the reasonable expectations of those whose data they hold, and of the regulator.

4/ Can you please supply all official information as to how Lancashire County Council decides whether or not personal information should be shared?

5/ Can Lancashire County Council provide all official information that shows that the sharing of personal information is adequately documented and subject, for example, to privacy impact assessments.

6/ Can Lancashire County Council also provide all official information that shows that when they share personal information they ensure that they pay particular attention to inherent risks such as: perpetuating or exaggerating inaccurate or outdated data; mismatching data; losing data; and intruding excessively into private lives”.

Requests on 12 August 2008

“1/ Has Lancashire County Council got a current Information Sharing Agreement with Lancashire Constabulary and, in particular, with the Council’s Social Services department so as to ensure consistent and proportionate sharing.

2/ What was the date of implementation of that agreement between Lancashire Constabulary and Lancashire County Council and if, indeed, it exists.

3/ Has Lancashire County Council got a current Information Sharing Agreement with the Independent Police Complaints Commission so as to ensure consistent and proportionate sharing.

4/ What was the date of implementation of that agreement between Lancashire County Council and the Independent Police Complaints Commissioner if, indeed, it exists.

5/ If these particular Information Sharing Agreements exist please provide them in full”.

Requests on 21 August 2008

“1/ Please can you supply me with all information as to the level of training or places of training of your designated complaints officers?

2/ Please supply all internal documentation as generated during the various investigations into my complaints that were first initiated via my email to the Lancashire County Council dated 6 July 2007 as attached.

3/ How are designated complaint's [sic] made accountable, who are they accountable to and who audits or regulates their performance?

4/ How is the internal governance and the probity of your internal complaint's [sic] procedures maintained?

5/ Please supply all detail as regards training schemes by accredited bodies such as the LGO or via such bodies as external consultants?

6/ What levels of financial outlay are expended by the County Council on accredited or otherwise training schemes as regards your designated complaint's offices [sic]?

7/ What levels of seniority are usually applied to persons who are given the status of designated complaint's [sic] officers?

7/ [sic] Please also supply any guidance as published/in the possession of the Council that is used by these people as part of the investigatory process?

8/ Please also supply any written information that is used by these persons to ensure, inter alia, that the investigations conducted by these people are, fair and objective; based on clear procedures and defined responsibilities; quick; thorough; rigorous; decisive and capable of putting things right where necessary; consistent; customer focused and comprehensive, with principles and key features which apply to all departments of the Council.

9/ Are interviews ever used as part of the internal investigation process, particularly, if specific allegations are made against named officers of the County Council?

And please supply any internal documentation or other information that you may feel of relevance to this complaint."

Requests on 27 August 2008

"I refer to the document dated 12 October 2007 as attached at point number 9.

Please supply all relevant documentation as regards the officer briefing to [name of council officer] at time unknown that resulted in the letter to me dated 07 August 2007 as attached. Please supply all briefing notes, preparatory notes, official information relevant to that meeting, diary or file notes that that informed that briefing session, the times and dates of the briefing, the name and job title of the officer and any other formal internal information that Lancashire County Council feels relevant. Please also provide all notes or otherwise as prepared by [name of council officer] that informed his response dated 07 August 2007 also as attached".

Requests on 27 August 2008

"Please supply all internal documentation generated during any formal investigation that demonstrated that [name of council officer], Team Leader's activities justified that precise and conclusive statement as provided below in bold on 12 October 2007...

Please also supply all interview records as to what [name of same council officer], Team Leader told the leader of the investigation and all documentation that [name of same council officer], Team Leader would have generated in order to comply with the attached procedures dated 16/08/07 if, indeed, he was 'well aware of guidance and duties in relation to information sharing and applies it diligently'...

Please also supply any other record generated as regards any investigation of the activities of [name of same council officer], Team Leader as raised in the formal complaints as answered via the attached letters from [name of three council officers]?"

Annex B

Request on 25 July 2007

"Can you please send me a copy or a summary of the Lancashire County Council policy as regards the disclosure of personal data, in particular, the sensitive personal data of a child in for example the Social Services Directorate.

In particular I wish to see the policy in relation to disclosing such information to third parties.

For example is sensitive personal data given out over the phone, is authorisation essential, what type of authorisation is needed, is consent of the child or the child's guardian considered essential, is such activity enacted in writing in a formal and official way, is common law confidentiality and privacy considered important, are records seen as essential when sensitive personal data is disclosed to third parties, is the ECHR considered, are only persons authorised to access such data allowed to deal with such data, what procedural control is exercised over such activities etc, etc, etc. If for example an outside an outside agency has not consent does disclosure have to be enacted officially, formally in writing. And what procedures have to be used by Lancashire County Council in these circumstances? I mean such agencies as schools, the police, probation officers etc, etc."