

Freedom of Information Act 2000 (Section 50)

Decision Notice

Date: 2 March 2011

Public Authority: The University of Cambridge
Address: University Offices
The Old Schools
Trinity Lane
Cambridge
CB2 1TN

Summary

The complainant requested information about appeals against dismissal which had been heard by the University of Cambridge since 1 January 2004. The university provided some information on appeals since 1 August 2009, when a central database had been introduced, but refused the remainder of the complainant's request on the grounds that it estimated that the costs for compliance with the request would exceed the statutory cost limit, under section 12 of the Freedom of Information Act. The Commissioner finds that the university correctly applied section 12 of the Act to the complainant's request and he requires no action to be taken.

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 a request to the university on 13 December 2009 for:

"For all categories of staff (unestablished, assistant, academic-related, academic, etc), and since 1 January

2004, please supply the answers to the following questions:

1. How many appeals against dismissal have been heard by the University (or by some body on behalf of the University)?

2. How many of these appeals have succeeded?

3. How many post-dismissal compensation settlements have been reached?

4. How many of these settlements were subject to confidentiality agreements?"

3. The university replied on 13 January 2010 giving a partial response of information it was to provide which related to the period since 1 August 2009, and refusing the remainder of the request on the basis of costs, under section 12 of the Act. It further stated that it had considered whether the complainant's request might be refined or limited in order to allow it to respond within the cost limit, but it had concluded that this was not possible.
4. The complainant corresponded further with the university on the matter on various occasions between 13 January and 16 March 2010. He requested an internal review of its response, on 22 March 2010.
5. The university wrote to the complainant on 12 April with the outcome of its internal review. The internal review upheld the university's previous decision.

The Investigation

Scope of the case

6. On 19 April 2010 the complainant contacted the Commissioner to complain about the way his request for information had been handled. The complainant specifically asked the Commissioner to consider the following points:
 - Information on the money awarded in post-dismissal compensation payments should be recorded in the university's accounts and an examination of those accounts,

for any given year, should permit the number of such settlements to be determined.

- The complainant argues that the files containing the requested information will be indexed. (This was the subject of a query raised by the complainant in correspondence with the university in the period between its refusal and the internal review. It is therefore not a ground of complaint in this specific matter, but has nevertheless suggested a line of enquiry for the Commissioner).
 - The complainant argues that the university's explanation of the time taken to locate the information in its records, based on its explanation of the random sampling exercise it undertook, is questionable.
 - The public authority's response, while within the statutory 20 working day period, was not 'prompt'.
 - The public authority did not provide the complainant with any advice and assistance.
7. The complainant also raised other issues that are not addressed in this Notice because they are not requirements of Part 1 of the Act.
8. The Commissioner has therefore investigated the university's explanation for its decision to refuse the complainant's request on the grounds of costs, under section 12 of the Act, and any associated duty to provide advice and assistance under section 16 of the Act. He has also examined the university's explanation for the time taken to respond to the complainant's request in order to assess whether this may be considered 'prompt'.

Chronology

9. The Commissioner telephoned and wrote to the university on 9 July 2010 to discuss matters which required clarification. Further correspondence with the university took place between July and October 2010 about a total of four cases, including this one, brought by the complainant against the university. That correspondence will not be set out in detail in this notice.
10. The Commissioner wrote to the complainant on 21 July 2010 giving him details of some of the clarification which had, by then, been provided by the university. He invited the

complainant to consider whether, in light of this clarification, he wished to continue with his complaint.

11. The complainant replied on 3 August, stating that the Commissioner's letter raised other matters which he considered required further investigation.
12. The Commissioner understood this to indicate that the complainant did not wish to withdraw his complaint. He corresponded with the complainant during August and September 2010 but the details will not be summarised further.

Analysis

Substantive Procedural Matters

Section 12

13. The Information Tribunal in the case of *Alasdair Roberts v IC* (EA/2008/0050)¹ gives a useful summary of the position surrounding a refusal of a request on the grounds of costs, under section 12 of the Act, stating, at paragraph 9:

"Section 12 does not require the public authority to make a precise calculation of the costs of complying with a request. Only an estimate is required. That estimate, however, must be a reasonable one and may only be based on the activities covered by Regulation 4(3)."

14. The reference to 'Regulation 4(3)' is a reference to Regulation 4(3) of the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004² (the Fees Regulations). Regulation 4(3) states:

"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–"

¹ Available online at [http://www.informationtribunal.gov.uk/DBFiles/Decision/i275/Roberts%20v%20IC%20\(EA-2008-0050\)%20Decision%2004-12-08.pdf](http://www.informationtribunal.gov.uk/DBFiles/Decision/i275/Roberts%20v%20IC%20(EA-2008-0050)%20Decision%2004-12-08.pdf)

² Available online at <http://www.legislation.gov.uk/uksi/2004/3244/contents/made>

- (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."*

15. The Information Tribunal in *Roberts* continues, at paragraph 10:

"What amounts to a reasonable estimate can only be considered on a case by case basis. [...] It is not sufficient for a public authority simply to assert the appropriate limit has been exceeded. As was made clear in Randall (EA/2007/0004) an estimate has to be 'sensible, realistic and supported by cogent evidence'"

and, at paragraph 12:

"Section 12 provides that the public authority may rely on its costs estimate to refuse a request but does not expressly make that reliance conditional on the quality or nature of the estimate. [...] However, the word "estimate" itself provides some guidance. It points to something more than a guess or an arbitrarily selected figure. It requires a process to be undertaken, which will involve an investigation followed by an exercise of assessment and calculation. The investigation will need to cover matters such as the amount of information covered by the request, its location, and the hourly cost of those who will have the task of extracting it (in this case a rate imposed by the Regulations). The second stage will involve making an informed and intelligent assessment of how many hours the relevant staff members are likely to take to extract the information. Clearly the whole exercise must be undertaken in good faith and, as the Regulation provides, involve an element of reasonableness."

16. Following this approach, the Commissioner will consider the way in which the public authority has investigated, assessed and calculated that the cost of the activities required in extracting the requested information would exceed the limit.

The university's estimate of costs

17. The university's refusal notice of 13 January 2010 explains that data held relating to the dismissal of staff have conventionally been held by the university in an unsystematic way, using paper-based records held across a number of physical locations and, until recently, were not collated centrally. (The university explains that this practice was intended to help maintain the confidentiality of those involved). It had established a central database from 1 August 2009 which had enabled it to provide information from that date. The university further explains that the location, retrieval and extraction of the requested information would require a manual search of each and every personnel file held by its human resources (HR) business managers.
18. The university subsequently clarified to the complainant that it held *"at least 500 [personnel] files"* and that a sampling exercise, using a random selection of files, indicated that it would take approximately 2 minutes and 45 seconds to search each file. This was the basis of the university's estimate that the costs for compliance with the request would exceed the appropriate limit which, in this case, would be £450.
19. In a further response to later queries from the complainant, the university clarified that it holds approximately 7500 files of all personnel who had left the university between January 2004 and December 2008, and the files of those who were dismissed during that period are held in an unsystematic way within that larger set of files.
20. The Commissioner noted a possible inconsistency in the university's responses, namely its contention that it held 'at least 500 files' and, later, that the number of files was approximately 7500. This was put to the university, which provided an explanation.
21. The number of files relating to former employees is too large to quantify precisely without considerable effort but is, it confirmed, approximately 7500. Using its time estimate of 2 minutes 45 seconds to search each file, it had estimated that it could search 392 files within the 18 hours which corresponds to the £450 cost limit. Therefore it was sufficient, for the purposes of its estimate of costs, for it to be satisfied that it held more than, in round figures, 500 files which would require searching, and it was not necessary for it to verify the actual number of files held for the purposes of its notice to the complainant.

22. The university also pointed out that an objective reading of the complainant's request for *"How many appeals against dismissal have been heard by the University"* would not only require a search of its files of former employees (for dismissed staff who had appealed against their dismissal), but would also require a search of the files held for current staff, in order to locate any dismissed staff who had appealed successfully and been reinstated. As the university employs approximately 8500 staff at any given time, that meant that the actual number of files requiring searching would have been on the order of 16,000.
23. The Commissioner therefore accepts that the figure of 'at least 500 files' is intended to convey the idea that this is the notional upper limit to the number of files which could be searched within the cost limit and, as the actual number of files exceeds this figure, the request was refused on the grounds of cost on that basis. The Commissioner observes that the actual number of files considerably exceeds this figure and, unless each file could be searched in less than 5 seconds, it would not be possible to search all 16,000 files within the 18-hour limit.

The extent of the searches required

24. The Commissioner has also considered the university's explanation, that it would be necessary to search each file in order to locate the requested information. He has therefore also examined the nature of the filing system employed by the university for its personnel records.
25. The university has explained that it does not maintain any master index or storage map of personnel files, nor any document governing the filing procedure. The files are held manually in an unsystematic way, across a number of physical locations. In general, the files are stored alphabetically and each is labelled externally with one or more of the following identifiers: name; title; date of birth; date of file opening; department. In the case of former staff who have left the university, the external label also includes the date or month of leaving (except in the case of files relating to assistant and research staff who left prior to January 2010, which have all external labelling removed). External labels are not numeric or bar-coded and there is no spreadsheet or master record against which the files could be cross-checked.
26. The Commissioner accepts the university's explanation, that there is no way to identify a file from its external identifiers which would show that the file related to a dismissed staff

member, nor one who had been dismissed and reinstated. Similarly, there is no external reference, such as a master list or spreadsheet, which might permit a list of dismissed staff to be compiled.

27. The Commissioner was alerted to other possibilities for locating the requested information, by the complainant. These included:

- the university's computerised personnel records system, referred to as 'CHRIS' and its predecessor 'SECQUS';
- the likelihood that any post-dismissal settlements would be recorded in the university's accounting software package; and
- the possibility that, due to their legally binding nature, separate copies of any post-dismissal settlement agreements (eg 'compromise agreements') might be retained in another department's records, for example the university's legal department, in order to ensure compliance with the agreed terms.

28. The Commissioner made enquiries of the university in respect of these possibilities. Its response explains that the CHRIS and SECQUS systems do contain information which permits a rough estimate of the number of individuals who were dismissed in any given year, but that the information is entered at a local level and cannot be guaranteed to be entirely consistent as a result. It explains, however, that the systems, while permitting the overall number of staff recorded as dismissed in any given year to be extracted, do not hold information on appeals against dismissal and it would therefore still be necessary to manually search the files for each dismissed staff member to locate those who had appealed. For similar reasons, staff whose appeals were successful and who therefore remained current staff, were not locatable via this resource.

29. (The Commissioner also observes that, from the university's explanation, these systems would not appear capable of locating the records of any staff who had successfully appealed, been reinstated, and who subsequently left the university's employ for reasons other than dismissal).

30. The university informs the Commissioner that numerical information on the number of staff dismissed, extracted from CHRIS and SECQUS, had been provided to the complainant in response to another request he had submitted in March 2010,

and the Commissioner was provided with a copy of this information. From this, he notes that the lowest number of staff recorded as dismissed in any given year was 624 (in 2006) and the highest was 952 (in 2004). (It is understood that the term 'dismissed' also includes staff whose short-term contracts come to an end and are not renewed).

31. The Commissioner was reminded of the university's estimate, that to search each file manually would take an average of 2 minutes and 45 seconds, and that therefore the number of dismissals for any given year exceeded the notional 500 files searchable within the cost limit, which it had previously referred to.
32. The university examined its computerised accounts and payroll software packages, to see if post-dismissal payments were specifically recorded and could therefore be isolated. It notes various general headings under which such payments could be recorded, including 'Payments staff disengagements' within the accounting software system, and 'Redundancy payments' and 'Compromise agreements' within its payroll system.
33. The university explains that there is no set procedure for recording post-dismissal compensation as this is an unusual occurrence, most compensation payments are agreed at the time of dismissal. Due to the lack of a specific procedure, different administrators will have dealt with the need to record this atypical situation in different ways and there is no consistency in the records held. It is quite possible that any such payments were simply recorded in the main accounts package under the regular heading for pay, and would therefore be indistinguishable from regular salary payments.
34. The university did a comparison of entries for 2009 under both the accounts and payroll systems and found no correlation between the two systems. The payroll system contains 242 more entries under the applicable headings than the accounts system and neither is a subset of the other – individuals occur in the relevant headings on the accounts system but not for the payroll system, and others appear in the applicable headings in the payroll system but are not recorded on the accounts system. The university concludes that neither record appears sufficiently consistent to enable reliable information to be extracted, largely down to the discretionary nature of the way the information can be recorded.

35. The Commissioner therefore accepts that a search of the university's accounts and payroll software would not have permitted it to locate and retrieve the information it holds which is described in the complainant's request.
36. The university also confirmed that its personnel records are the only repository for compromise agreements or other documents evidencing the terms of post-dismissal compensation agreements and that, while its Legal Services Office may hold individual copies on an 'ad-hoc' basis on occasions where its advice has been sought, there is no comprehensive record held outside the university's Personnel Division.
37. The Commissioner is again assisted by the Information Tribunal in *Roberts*, which considered the issue of whether a public authority's estimate of costs ought to be invalidated if it fails to consider an obvious method of extracting the information suggested to it by the applicant. The tribunal states, at paragraph 13:

"We can envisage circumstances where it might be concluded that a public authority ought not to be permitted to rely on the reasonableness of its estimate if it had failed to give appropriate consideration to a cheaper available means for doing so. It does not follow from this that it only needs a person requesting information to suggest one alternative which the public authority had not considered for it to be prevented from relying on its estimate. It is only if an alternative exists that is so obvious to consider that disregarding it renders the estimate unreasonable that it might be open to attack. And in those circumstances it would not matter whether the public authority already knew of the alternative or had it drawn to its attention by the requestor or any other third party."

38. The Commissioner notes that the circumstances in this particular case are not directly comparable, most notably because the possible use of the university's CHRIS, SECQUS, accounts and payroll software packages were not suggested by the complainant in his correspondence with the university, but were first raised by him during his exchanges with the Commissioner about his complaint. The Commissioner consequently examined these possibilities in order to learn whether they might reasonably have been considered so

obvious that disregarding them would render the university's estimate invalid.

39. Therefore, the Commissioner notes that the university was not alerted to this possibility by the complainant and, as stated by the tribunal, above, *"It is only if an alternative exists that is so obvious to consider that disregarding it renders the estimate unreasonable that it might be open to attack"*. The university did not pursue this alternative at the time of the request, but the Commissioner does not find that it could be considered to be so obvious that failing to consider it renders its estimate unreasonable. He observes that to assist the Commissioner's investigation, the university attempted to use the various software packages to narrow down its search but the results were unsatisfactory for the various reasons explained above. Therefore there would appear to be no strong reason why these methods ought to have occurred to, or been attempted by, the university at the time.
40. He therefore concludes that the university was correct to state that in order to locate those staff who had been dismissed and appealed their dismissal, it would be necessary to manually search the contents of each file for that information. And further, that there is no way in which that search could be narrowed-down sufficiently by the use of other resources, to permit a response to be provided within the cost limit. The Commissioner is satisfied that the university has provided the complainant with an estimate, and that its estimate is *'sensible, realistic and supported by cogent evidence'* as described in the tribunal case of *Randall*, and quoted by the tribunal in *Roberts*, above.
41. The Commissioner therefore finds that the university correctly applied section 12 of the Act, in refusing the complainant's request on the grounds that it estimated that the costs for complying with the request would exceed the statutory limit of £450.

Procedural Requirements

Section 10

42. The complainant has complained that, despite him receiving the response to his request within the 20 working day statutory limit, the university's response was not 'prompt' as is required by section 10(1) of the Act, which states:

"Subject to subsections (2) and (3), a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt."

43. It has therefore been necessary to enquire of the university what tasks were undertaken in order to provide a response to the complainant's request.
44. The university's response explains that the complainant's request was received on 13 December 2009 (a Sunday) and acknowledged the next working day. It was forwarded to the human resources division that day. The freedom of information (FOI) office was informed that because the request was similar to another also being dealt with in the division at the time, the handling of the two requests would consequently be correlated. No further contact with the HR division occurred in relation to this request in the 8 working days before the university broke for Christmas.
45. Follow-up was sent by the FOI staff on 5 January 2010, the HR division commented that the request had turned out to be far wider in scope than the other request it was dealing with at the same time. A response from the HR division was received on 7 January 2010. This, together with a draft response to the complainant, was submitted to the university's legal services office on 8 January 2010, advice from that office was received on 13 January 2010 and the response was sent the same day.
46. The Commissioner therefore notes two periods, the first of 15 working days, and the second, of 3 working days, when the request was in the hands of divisions other than the university's FOI office. Noting that the primary functions of both the HR and legal services departments is not the fulfilment of FOI requests, he is unable to conclude that these periods are unreasonable, given those departments' other workloads.
47. The Commissioner also recognises that, in the current case, the period for the response occurs over the Christmas holidays and he has due regard for these seasonal considerations and the disruption to both regular and FOI-related tasks which may occur, due to the forced closure of the university offices on the 3 working days between Christmas and New Year. He further notes the HR division's comment that the request had, on examination, turned out to be wide in its scope (evidenced by the analysis for 'section 12' above).

48. The Commissioner notes that his Decision Notice in case reference FS50307811³ also for the same complainant, concluded that, while there had been a breach of section 10 of the Act for other reasons, the university's response had been provided promptly in that case.
49. In the current case, the university's HR division dealt with the request in 15 working days, of which 3 working days were unavailable to it due to closure of the department over the Christmas break. Given the wide scope of the request, the Commissioner is unable to conclude that 12 working days would have been an unreasonable period, noting that during this period the HR department would first have attempted to locate and retrieve the information, conducted a random-sampling exercise in order to produce an estimate of costs, located and retrieved the information it was able to find within the cost limit, and pass this to the university's FOI team. Accordingly, he concludes that the university also responded promptly in this case.
50. The complainant takes issue with the time taken by the university in replying to his further emails, sent after its response to his request was received. He also argues that these were not 'prompt'. The Commissioner notes that section 10 of the Act applies only to the duty to comply with section 1(1) of the Act, namely to the response to the request for information, and not to any subsequent correspondence.

Section 16

51. The university's refusal notice of 13 January 2010 explains that consideration had been given to whether the complainant's request might be refined or limited in order to come within the cost limit, but that it had concluded that this was not possible. Even if the complainant's request were refined by reference to a shorter timescale, or more specific classes of staff, the manual searches described would still have been necessary.
52. Having examined the process and searches which would have been required in order to locate the requested information, the Commissioner concurs with the university's reasoning, that the way its files are collated and stored means that a search of the

³ Available online at http://www.ico.gov.uk/~media/documents/decisionnotices/2010/FS_50307811.ashx

entire filing system would still remain necessary, regardless of how the complainant might have chosen to limit the scope of his request.

53. The complainant misunderstands the university's use of the term '*at least 500 [files]*' to conclude that a full search would have taken approximately 23 hours, being 500 times 2 minutes 45 seconds. As has been explained at paragraphs 20-23, this interpretation of the reference to 500 files is erroneous. The complainant has misinterpreted the response and made an invalid assumption as to the overall number of files which the university would be required to search.
54. The complainant's argument may be summarised as being that a substantial response could still have been given, if the files had been searched for 18 of the 23 hours which would have been required, but this was not offered or suggested to him. As is clear from the analysis section for 'section 12' above, this is not the correct interpretation of the university's reasons for its estimate. The Commissioner acknowledges that the university's reply is capable of being misinterpreted in this way, albeit the complainant's arguments suggest that he assumes that 'at least 500' should be taken to mean 'approximately 500'. This assumption is not supported by an objective reading of the university's replies to his emails, prior to the internal review.
55. The Commissioner notes that section 16(1) of the Act requires 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*". There is consequently no absolute duty to provide advice and assistance where it would not be reasonable to expect the authority to do so.
56. The university did provide some advice and assistance, inasmuch as it explained its reasons why such advice and assistance was not considered able to help the complainant refine his request. It is therefore clear that it has not neglected this duty, but has concluded that there is no advice and assistance which it can offer in the circumstances. The Commissioner agrees with the university's assessment, and does not find any breach of section 16 of the Act.

The Decision

57. The Commissioner's decision is that the public authority dealt with the request for information in accordance with the Act.

Steps Required

58. The Commissioner requires no steps to be taken.

Right of Appeal

59. Either party has the right to appeal against this Decision Notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals,
PO Box 9300,
Arnhem House,
31, Waterloo Way,
LEICESTER,
LE1 8DJ

Tel: 0845 600 0877

Fax: 0116 249 4253

Email: informationtribunal@tribunals.gsi.gov.uk.

Website: www.informationtribunal.gov.uk

60. 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.

61. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this Decision Notice is sent.

Dated the 2nd day of March 2011

Signed

**Pamela Clements
Group Manager, Complaints Resolution
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF**

Legal Annex

Time for Compliance

Section 10(1) provides that –

“Subject to subsections (2) and (3), a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt.”

Section 10(2) provides that –

“Where the authority has given a fees notice to the applicant and the fee paid is in accordance with section 9(2), the working days in the period beginning with the day on which the fees notice is given to the applicant and ending with the day on which the fee is received by the authority are to be disregarded in calculating for the purposes of subsection (1) the twentieth working day following the date of receipt.”

Section 10(3) provides that –

“If, and to the extent that –

(a) section 1(1)(a) would not apply if the condition in section 2(1)(b) were satisfied, or

(b) section 1(1)(b) would not apply if the condition in section 2(2)(b) were satisfied,

the public authority need not comply with section 1(1)(a) or (b) until such time as is reasonable in the circumstances; but this subsection does not affect the time by which any notice under section 17(1) must be given.”

Section 10(4) provides that –

“The Secretary of State may by regulations provide that subsections (1) and (2) are to have effect as if any reference to the twentieth working day following the date of receipt were a reference to such other day, not later than the sixtieth working day following the date of receipt, as may be specified in, or determined in accordance with the regulations.”

Section 10(5) provides that –

“Regulations under subsection (4) may –

- (a) prescribe different days in relation to different cases, and
- (b) confer a discretion on the Commissioner."

Section 10(6) provides that –

"In this section –

"the date of receipt" means –

- (a) the day on which the public authority receives the request for information, or
- (b) if later, the day on which it receives the information referred to in section 1(3);

"working day" means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in any part of the United Kingdom."

Exemption where cost of compliance exceeds appropriate limit

Section 12(1) provides that –

"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."

Section 12(2) provides that –

"Subsection (1) does not exempt the public authority from its obligation to comply with paragraph (a) of section 1(1) unless the estimated cost of complying with that paragraph alone would exceed the appropriate limit."

Section 12(3) provides that –

"In subsections (1) and (2) "the appropriate limit" means such amount as may be prescribed, and different amounts may be prescribed in relation to different cases."

Section 12(4) provides that –

“The secretary of State may by regulations provide that, in such circumstances as may be prescribed, where two or more requests for information are made to a public authority –

(c) by one person, or

(d) by different persons who appear to the public authority to be acting in concert or in pursuance of a campaign,

the estimated cost of complying with any of the requests is to be taken to be the estimated total cost of complying with all of them.”

Section 12(5) – provides that

“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 estimated.”

Duty to provide Advice and Assistance

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.”

Section 16(2) provides that –

“Any public authority which, in relation to the provision of advice and assistance in any case, conforms with the code of practice under section 45 is to be taken to comply with the duty imposed by subsection (1) in relation to that case.

**The Freedom of Information and Data Protection
(Appropriate Limit and Fees) Regulations 2004**

Estimating the cost of complying with a request – general

4.—(1) This regulation has effect in any case in which a public authority proposes to estimate whether the cost of complying with a relevant request would exceed the appropriate limit.

(2) A relevant request is any request to the extent that it is a request–

(a) for unstructured personal data within the meaning of section 9A(1) of the 1998 Act⁴, and to which section 7(1) of that Act would, apart from the appropriate limit, to any extent apply, or

(b) information to which section 1(1) of the 2000 Act would, apart from the appropriate limit, to any extent apply.

(3) 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.

(4) To the extent to which any of the costs which a public authority takes into account are attributable to the time which persons undertaking any of the activities mentioned in paragraph (3) on behalf of the authority are expected to spend on those activities, those costs are to be estimated at a rate of £25 per person per hour.

⁴ Section 9A(6) of the Data Protection Act 1998 provides that any estimate of the appropriate limit for the purposes of that section must be made in accordance with regulations made under section 12(5) of the Freedom of Information Act 2000.