

FREEDOM OF INFORMATION ACT 2000 (SECTION 50)

DECISION NOTICE

Dated 5th December 2005

Name of Public Authority: London Borough of Lewisham

Address of Public Authority: Town Hall
Catford
London
SE6 4RU

Nature of Complaint

The Information Commissioner (the "Commissioner") has received a complaint from the complainant which states that on 7 January 2005 the following information was requested from the London Borough of Lewisham ("Lewisham") under section 1 of the Freedom of Information Act 2000 (the "Act"):

Copies of letters sent to Lewisham Council in 2003 detailing allegations of blackmail.

In the context of the various background issues which the complainant and Lewisham are involved in, Lewisham considered this request was sufficiently clear to enable them to respond.

Lewisham responded, sending the complainant part of the information requested. However, it is alleged that Lewisham, when refusing access to all of the information, did not:

- i) issue a proper refusal notice, and consequently
- ii) partially breached the 20 working day time limit in which to respond to information requests.

The Commissioner's Decision

Under section 50(1) of the Act, except where a complainant has failed to exhaust a local complaints procedure, or where the complaint is frivolous or vexatious, subject to undue delay, or has been withdrawn, the Commissioner is under a duty to consider whether the request for information has been dealt with in accordance with the requirements of Part I of the Act and to issue a Decision Notice to both the complainant and the public authority.

Lewisham responded to the complainant's request by e-mail dated 4 February 2005. In that correspondence, Lewisham informed the complainant that the request was being treated as a subject access request under the Data Protection Act 1998 ("DPA") because the documentation contains personal

information about named individuals. In view of this, the Commissioner is satisfied that Lewisham initially took the view that the requested information was exempt under section 40(1) of the Act and consequently, extended the time limit to respond to 40 days in accordance with the DPA.

When responding on 15 February 2005 (i.e. within the 40 day limit permitted by the DPA) Lewisham provided the complainant with some information relating to himself. Upon investigating this case, the Commissioner learnt that the complainant had been refused access to the remainder of the information because Lewisham Council considered that the remainder of the information contained third party data and was exempt under section 40(2) of the Act.

In view of this, the Commissioner's decision is as follows:

- i) Lewisham breached section 17(1) when sending the e-mail of 4 February 2005 insofar as the e-mail neither contained an indication that the information contained any third party data nor stated the exemption that would be applied. Section 17(1) states:

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 the fact*
 - b) *specifies the exemption in question, and*
 - c) *states (if that would not otherwise be apparent) why the exemption applies*
- ii) Lewisham did not inform the complainant that he would be refused access to any third party data in the requested information within 20 working days of his original request. By failing to notify the complainant of this until 15 February 2005, Lewisham breached section 10(1). Section 10(1) 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.”

After the Commissioner began investigating this case, Lewisham took the opportunity to review their original decision and decided to release further information to the complainant. The complainant was satisfied with this disclosure and the Commissioner considers that this aspect of the complaint has now been informally resolved.

Action Required

The Commissioner does not require any remedial steps to be taken by Lewisham.

Reference: FS50066390

Right of Appeal

Either party has the right to appeal against this Decision Notice to the Information Tribunal (the "Tribunal"). Information about the appeals process can be obtained from:

Information Tribunal	Tel: 0845 6000 877
Arnhem House Support Centre	Fax: 0116 249 4253
PO Box 6987	Email: informationtribunal@dca.gsi.gov.uk
Leicester	
LE1 6ZX	

Any Notice of Appeal should be served on the Tribunal within 28 days of the date on which this Decision Notice is served.

Dated the 5th day of December 2005

Signed:

Graham Smith
Deputy Commissioner

Information Commissioner
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF