



## **Freedom of Information Act 2000 (Section 50)**

### **Decision Notice**

**Dated 5 June 2006**

**Public Authority: Coventry City Council**

**Address: Council House  
Earl Street  
Coventry  
CC1 5RR**

#### **Summary Decision and Action Required**

**The Commissioner's decision in this matter is that the Public Authority has dealt with the Complainant's request in accordance with Part I of the Act.**

**In the light of this decision, the Notice specifies no remedial steps to be taken by the public authority.**

- 1. Freedom of Information Act 2000 (the 'Act') – Applications for a Decision and the Duty of the Commissioner**
  - 1.1 The Information Commissioner (the 'Commissioner') has received an application for a decision whether, in any specified respect, the Complainant's request for information made to the Public Authority has been dealt with in accordance with the requirements of Part I of the Freedom of Information Act 2000 (the 'Act').
  - 1.2 Where a complainant has made an application for a decision, unless:
    - a complainant has failed to exhaust a local complaints procedure, or
    - the application is frivolous or vexatious, or
    - the application has been subject to undue delay, or
    - the application has been withdrawn or abandoned,the Commissioner is under a duty to make a decision.
  - 1.3 The Commissioner shall either notify the complainant that he has not made a decision (and his grounds for not doing so) or shall serve a notice of his decision on both the complainant and the public authority.

## 2. The Complaint

2.1 The complainant has advised that on 17 June 2005 he requested information on behalf of another person (the parent of a murder victim) from Coventry City Council in accordance with section 1 of the Act. The information related to an individual who had been convicted of the murder of the other person's son and who, according to information that the police had given to the complainant, had lived at an address in Coventry prior to the murder. The information requested was described as follows;

*"I want to know if the murderer was a tenant of Coventry City Council or any housing providers in Coventry including accommodation for homeless people. I also want to know if he was in receipt of Housing Benefit and Council Tax or Community Charge Benefit. I also want to know if he was registered with Social Services or known to Social Services".*

2.2 On 28 June 2006 the council advised the complainant that his request for information had been considered and it was not able to supply the information he had requested. The council advised him that the information he had requested was exempt from disclosure under Section 40 (5) (b) (i) and Section 41 of the Act. The council also advised him that it was *"not the council's practice ever to either confirm or deny whether personal data of this kind is held about a named individual as such confirmation is likely to result in a breach of the data protection principles and/or a breach of confidence"*.

2.3 On 4 July 2005 the complainant wrote to the Information Commissioner asking for a decision as to whether his request for information to the council had been dealt with in accordance with the requirements of Part I of the Act.

## 3. Relevant Statutory Obligations under the Act

3.1 **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."

## 4. Review of the case

4.1 At this time the Information Commissioner was already investigating another earlier complaint made on behalf of the parent of the murder victim by a different complainant. This complaint also concerned information about the murderer that other complainant had requested from Coventry City Council. The council had already refused this earlier request on the grounds that it did not hold any information about the murderer.

- 4.2 In order to clarify the matter the Commissioner contacted the council by telephone and was informed that, despite the reference to the exemptions in Sections 40 (b) (i) and 41 in the refusal notice of 28 June 2005 sent to the complainant the council held no information about the murderer.
- 4.3 The Commissioner then wrote to the council asking for written confirmation that it did not hold the information about the murderer that the complainant had requested. The Commissioner also asked for an explanation of the basis on which the council had applied the exemptions in Sections 40 (5) (b) (i) and 41 to the requested information and an explanation as to how the council had claimed exemption from "*the duty to confirm or deny*" in Section 1, subsection (1) (a) of the Act. In addition the Commissioner asked the council to explain its policy of never confirming or denying whether it held personal data about named individuals in response to requests made under the Act.
- 4.4 The council replied to the Commissioner accepting that its refusal notice of 28 June 2005 could have been misleading and assuring the Commissioner that in future when considering "*the duty to confirm or deny*" it would treat each case on its merits. It also informed the Commissioner that having carried out a search for the information described in the complainant's request it now confirmed that it held no information about the murderer.
- 4.5 The council also wrote to the complainant confirming that "*despite an extensive search of our files and systems no records of any dealings with the murderer have come to light and the council can confirm that it does not hold the information requested by the parent of the murder victim*".
- 4.6 Shortly after this the complainant made a further complaint to the Information Commissioner about a request for information about the murderer that he had made on behalf of the victim's parent to the Department for Work and Pensions (the "DWP").
- 4.7 The DWP had refused that request on the grounds that the information requested was personal data and therefore exempt from disclosure under Section 40 of the Act. Subsequently the DWP agreed to provide the complainant with some of the information he had requested in the form of an address in Coventry for the murderer from which he had claimed sickness benefit in August 1994. The address was a Salvation Army hostel at 1 Lincoln Street, Coventry. The complainant then withdrew his complaint against the DWP.
- 4.8 Using the address provided by DWP the complainant made a further new request to Coventry City Council for information about the murderer.
- 4.9 The Commissioner also asked the council to carry out a further search of all its records for information about the murderer using the address now provided by the complainant. The council did this and informed the Commissioner that the electoral roll had been checked for the date that the murderer was known to have been at the Salvation Army hostel and also for the relevant date that the electoral roll was annually updated and there was no trace of any record for him at either time.

- 4.10 The council also informed the Commissioner that as the Salvation Army hostel where the murderer had stayed was not a council hostel and therefore not under council control there would be no record as far as linked benefits, e.g. housing benefit, were concerned. In addition the council reported that it had checked social services records, housing benefit, council tax and community charge benefit records again using the Salvation Army hostel address and there was no trace of the murderer in any of these records.
- 4.11 The Commissioner also asked the council to confirm: (a) what type of records, i.e. paper or electronic or both, it might have used to record information about individuals like the murderer, (b) whether it had a destruction policy which would have been applied to such records and (c) if so, what the normal destruction period would have been?
- 4.12 The council provided the Commissioner with the requested confirmation. This showed, amongst other things, that the council would not have requested or recorded information about persons who were resident in Salvation Army hostels in its area. It also showed that even if it had obtained and recorded information about individuals like the murderer for other reasons this would have been deleted under the council's normal deletion procedures by the time of the complainant's request.

## **5. The Commissioner's Decision**

- 5.1 The Commissioner is satisfied that the requested information is not held by the council and that the complainant's request has been dealt with in accordance with Part I of the Act. The council has carried out a number of searches for information about the murderer in response to requests made by the Commissioner and by representatives of the victim's parent none of which have shown that any such information is held by the council. The council has also demonstrated that the fact that the murderer was resident in a Salvation Army hostel in Coventry at the relevant time in 1994 does not mean that the council would therefore have requested or recorded information about him as a result.

## **6. Action Required**

- 6.1 In the light of the matters set out above, the Commissioner requires no remedial steps to be taken by the public authority.

## **7. Right of Appeal**

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

Information Tribunal  
Arnhem House Support Centre  
PO Box 6987  
Leicester  
LE1 6ZX

Tel: 0845 600 0877

Reference: FS50084554

Fax: 0116 249 4253

Email: [informationtribunal@dca.gsi.gov.uk](mailto:informationtribunal@dca.gsi.gov.uk)

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

**Dated the 5th day of June 2006**

**Signed .....**

**Phil Boyd  
Assistant Commissioner  
Information Commissioner  
Wycliffe House, Water Lane  
Wilmslow Cheshire SK9 5AF**