

Freedom of Information Act 2000 (Section 50)

Decision Notice

Date: 14 December 2009

Public Authority: Student Loans Company
Address: 100 Bothwell Street
Glasgow
G2 7JD

Summary

The complainant made a request under the Freedom of Information Act 2000 (the "Act") to the Student Loans Company (the "Company"). The request was for a number of documents listed (a) to (l). The Company has now provided all of the documents to the complainant in electronic format apart from document (d). A number of redactions were made under section 40(2) of the Act to document (d) however most of the redactions were removed apart from 'live' snapshots from its database. The complainant is satisfied that these particular redactions were correctly made and therefore this issue is not considered within this Notice. However the complainant remains dissatisfied that this document has not been provided to him in electronic format. The Company explained that it did not provide document (d) in electronic format as it stated that it was not reasonably practicable for it to do so. The Commissioner is satisfied that it would not be reasonably practicable for the Company to provide document (d) in electronic format and therefore it complied with section 11 of the Act.

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 for a number of documents (a) to (l) on 22 June 2007. He asked for these documents to be provided in electronic format.

3. On 20 July 2007 a number of documents were provided to the complainant in hard copy format. Redactions had been made to some of the documents.
4. On 7 July 2008 the complainant asked the Company to carry out an internal review. The complainant explained that he was dissatisfied with the redactions made to some of the documents, he was dissatisfied that the documents had not been provided in electronic format as he had requested and finally one of the documents requested had not been provided at all.
5. On 25 July 2008 the Company wrote to the complainant with the result of the internal review it had carried out. The Company upheld the redactions it had made to some of the documents, it explained that it would not be reasonably practicable for it to provide the requested documents in electronic format, and finally explained that one of the documents had not been provided as it had previously been provided to the complainant.

The Investigation

Scope of the case

6. On 25 March 2009, the complainant contacted the Commissioner to make a complaint about the way his request had been dealt with by the Company.
7. During the course of the Commissioner's investigation the majority of the complaint was resolved. However the Company did not provide document (d) in electronic format and it is this issue that remains outstanding. The Commissioner has therefore focused this Notice upon this outstanding matter.

Chronology

8. On 20 July 2009 the Commissioner wrote to the Company in order to determine what redactions could be removed, what information could be provided in electronic format and why one of the documents had not been provided at all. The Company responded to the Commissioner on 31 July 2009.
9. Following this, the Commissioner exchanged numerous correspondence with the Company and the complainant in order to attempt to resolve this complaint.
10. On 23 November 2009 the complainant confirmed that all of the original information withheld in document (d) had now been disclosed apart from the 'live' snapshots from the Company's database which he

agreed should be withheld. He confirmed that he was also satisfied that all of the other documents he had requested had now been provided to him in electronic format. He therefore confirmed that the outstanding issue related to the format of document (d) as the Company had maintained that it would not be reasonably practicable to provide this document electronically.

Analysis

Procedural matters

Section 11

11. Section 11(1) of the Act states that:

“Where, on making his request for information, the applicant expresses a preference for communication by one or more of the following means, namely

- (a) the provision to the applicant of a copy of the information in permanent form or in another form acceptable to the applicant,
- (b) the provision to the applicant of a reasonable opportunity to inspect a record containing the information, and
- (c) the provision to the applicant of a digest or summary of the information in permanent form or in another form acceptable to the applicant.

the public authority shall so far as is reasonably practicable give effect to that preference.”

Section 11(2) of the Act states that:

“In determining for the purposes of this section whether it is reasonably practicable to communicate information by a particular means, the public authority may have regard to all the circumstances, including the cost of doing so.”

A full text of section 11 is available in the Legal Annex at the end of this notice.

- 12. In this case the complainant did specify his preferred format, he asked for all documents, including document (d), to be provided in electronic format.
- 13. The Company has stated that it would not be reasonably practicable for it to provide document (d) in electronic format.

14. The Company stated that it only held version 19 of document (d) in hard copy format (version 19 was the version in place at the time of the request). It explained that it would therefore have to scan and email the document to the complainant in order to provide it in electronic format. It explained that the document was too large for the Company's system to do this straightforwardly. It clarified that the document is approximately 200 pages long and due to the scanning system in place it would have to be scanned and emailed on a page by page basis. It explained that it had previously tried to scan and email large documents in response to other FOI requests however the system blocks the sending of anything over around 20 pages. It initially estimated that it would take around 2 hours to scan the document and then it would have to be sent in a number of different emails. The Company did however state that the current version of document (d) was version 20. It explained that it did hold version 20 in electronic format and that it would be happy to provide this in electronic format. It explained that version 19 and 20 did not differ that much.
15. After further consultation within the Company it explained that it had become apparent that its internal system could not produce version 19 of the document in electronic format as it was too large for the system. It explained that the system would not be able to convert it to electronic format as initially thought. It therefore explained that it would have to contract an external company to carry out this work, which it considered would not be reasonably practicable.
16. The Commissioner is aware of his guidance on this issue, Awareness Guidance 29, Means of Communication. This states that, "An authority may take into account all of the circumstances when deciding whether it is reasonably practicable to agree to the preference, for example:
 - The information is contained in a particularly old or fragile document and to provide a copy of the document may have a detrimental effect on it.
 - The amount of work required to meet the applicant's request would exceed the appropriate fees limit.
 - Whether the information is available elsewhere, under section 21 or otherwise.
 - Whether there are security or other issues which may prevent members of the public entering a building. Such barriers would not be sufficient to justify refusing the information requested. The authority would need to provide the information in another form."
17. The Commissioner considers that it would not be reasonably practicable for the Company to have to engage external contractors in order to provide the document in electronic format.. Although this does not fit into any of the particular circumstances described above this list is not exhaustive and the Commissioner has taken into account the particular circumstances of this case in coming to his conclusion that it

would not be reasonably practicable to provide the document in electronic format. In particular he was mindful that the Company were unable to convert the document into electronic format internally, it had offered to provide the updated document which it does hold in electronic format to the complainant, and furthermore the complainant already had a copy of the document in hard copy.

The Decision

18. The Commissioner's decision is that the Company complied with section 11(1) of the Act. He therefore requires no steps to be taken.

Right of Appeal

19. 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 14th day of December 2009

Signed

**Anne Jones
Assistant Commissioner**

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

Legal Annex

Means by which communication can be made

Section 11(1) provides that –

“Where, on making his request for information, the applicant expresses a preference for communication by one or more of the following means, namely –

- (d) the provision to the applicant of a copy of the information in permanent form or in another form acceptable to the applicant,
- (e) the provision to the applicant of a reasonable opportunity to inspect a record containing the information, and
- (f) the provision to the applicant of a digest or summary of the information in permanent form or in another form acceptable to the applicant.

The public authority shall so far as is reasonably practicable give effect to that preference.”

Section 11(2) provides that –

“In determining for the purposes of this section whether it is reasonably practicable to communicate information by a particular means, the public authority may have regard to all the circumstances, including the cost of doing so”

Section 11(3) provides that –

“Where a public authority determines that it is not reasonably practicable to comply with any preference expressed by the applicant in making his request, the authority shall notify the applicant of the reasons for its determination

Section 11(4) provides that –

“Subject to subsection (1), a public authority may comply with a request by communicating information by any means which are reasonable in the circumstances.”