



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

### **Decision Notice**

**Dated 13 July 2006**

**Public Authority: Crown Prosecution Service**  
**Address: 50 Ludgate Hill**  
**London**  
**EC4M 7EX**

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

**The Commissioner's decision in this matter is that the public authority dealt with the complainant's request in accordance with the requirements of Part I of the Freedom of Information Act 2000 (the 'Act') by informing the complainant that the information requested was not held by it because it was never created. Although the Commissioner also finds that that the public authority wrongly claimed that the request was repeated, this did not lead to a contravention of the Act since a proper response was in fact given to the request.**

**In the light of these findings, the Commissioner requires no further steps to be taken by the public authority.**

### **1 Application 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- the application has been withdrawn or abandoned,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 26 January 2005 the following information was requested from the public authority in accordance with section 1 of the Act:

“Copies of notes made by CPS and DPP personnel when considering my analysis of each letter sent to Brian Sedgemore MP by [three names] and others – and the material I sent with copies to those letters in support of my analysis. Similarly the letters sent to [two names] and other by [name].

...copies of the records of the view taken by the CPS and the DPP of my analysis of letters sent to me by [eight names] and others.

...copies of the assessment made by the CPS and the DPP of the information obtained by Ron Leighton MP; my comments on the actions of the Solon Co-operative Housing Services Limited and my comments on the relationship between the letters sent to Brian Sedgemore MP by [name] and the breaching of the three years policy.”

2.2 The above request relates to the complainant's allegation of fraud and corruption at Hackney Council. The complainant had previously submitted to the Metropolitan Police a dossier in support of his allegations containing the analyses and comments detailed above. On 9 March 1993 the Metropolitan Police referred the case to the Crown Prosecution Service (the 'CPS'). In 1997 the complainant submitted papers in support of his allegation directly to the CPS which returned them to him.

2.3 The specified request followed a letter dated 8 January 2005, in which the complainant asked, in respect of a number of statements of opinion and judgment, whether or not the public authority agreed with him. The full text is set out in the annex to this Notice.

2.4 On 4 February the public authority stated that as it had never considered any of the documentation submitted by the complainant, it held no notes, records or assessments. It stated that the complainant had been in frequent correspondence with the public authority since August 1995, and that he had been advised that the CPS is not an investigative body and has no powers to investigate allegations of crime. It further informed the complainant that the CPS is responsible for reviewing and, where appropriate, prosecuting most criminal cases in England and Wales following investigation by the police.

2.5 The public authority advised the complainant that all documentation submitted to the CPS between 3 November 1997 and 8 December 1997 was returned to the complainant by 11 December 1997, and was reminded that he had been advised to seek independent legal advice or contact the police with any allegations of crime. It further reminded the complainant that he had been advised that further requests of



the same nature would be filed without response unless new issues were raised, and confirmed that as no new issues had been raised, the public authority's position had not changed. The public authority concluded that the complainant's request had been judged to be repeated and that it was under no obligation to respond.

- 2.6 On 13 February, the complainant wrote again to the public authority. In this letter he repeated his request, made further similar requests and asked a number of questions relating to the same issue. The public authority informed the complainant on 7 March 2005 that this letter would be treated as a request for a review.
- 2.7 The public authority wrote again to the complainant on 16 March with the outcome of its review. This review upheld the view that the request was repeated and that the public authority was not obliged to respond to it. However, the review went on to state that, other than copies of correspondence between the complainant, the law officers and the CPS, no other information was held by the public authority because the documents were not subject to any internal analysis by either the Law Officers or CPS. It once again reminded the complainant of the function of the CPS. The public authority advised the complainant that the matter was closed, but that he had a right of appeal to the Information Commissioner.
- 2.8 The complainant did not approach this Commissioner at this stage, instead continuing to address further questions, requests and complaints to the public authority. Following a final letter from the CPS on 1 September which again advised the complainant of his right to appeal to the Commissioner, the complainant contacted the Commissioner's office on 3 September, enclosing all correspondence between both parties up to that date.
- 2.9 Due to the content of the original complaint, the Commissioner understood the matters under review to be all communications between the parties between 8 January and 1 September 2005 and sought informal resolution on the case. On 11 May 2006 however, the complainant stated that he had made only one request, on 8 and 26 January 2005. The Commissioner and complainant subsequently agreed that this Notice would address only those matters arising from those specified requests.

### **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.”



3.2 **Section 14(2)** provides –

“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.”

**4 Review of the case**

- 4.1 The Commissioner does not regard the questions asked in the complainant's letter of 8 January as requests for recorded information. Had the public authority held information relevant to the matters raised in the letter it may have been under a duty, under section 16 of the Act, to advise the complainant of this. In this case, however, as discussed below, the public authority does not hold such information.
- 4.2 The complainant has specifically asked the Commissioner to consider the public authority's use of section 14. The Commissioner considers that requests for information, as allowed by the Act, can only have been made since the Act came into force on 1 January 2005. Requests for information made on 8 and 26 January 2005, and not following previous identical or substantially similar requests made in 2005 could not therefore be regarded as repeated.
- 4.3 However, although the public authority refused to provide the requested information, it also complied with the requirements of section 1(1)(a) by informing the complainant that it did not hold the information specified in the request. The reason for refusal given in the refusal notice and upheld on review was therefore unnecessary.
- 4.4 The correspondence from the public authority in 2005 states that the information requested by the complainant is not held because no notes, records and assessments were made. The public authority has explained that this is because the CPS is not an investigating body.
- 4.5 The public authority explained to the Commissioner that the complainant had been in correspondence with it since 1995 and had, since that time, been advised that he should direct any allegations of criminal activity to the police. The public authority has supplied the Commissioner with copies of letters sent from both the CPS and the Legal Secretariat to the Law Officers to the complainant in support of this explanation.
- 4.6 In a letter of 27 September 1995, the CPS said that it, “would suggest that you consider making a report to your local police.” On 9 July 1996, and again on 28 November 1997, the CPS provided an explanation of the different roles of the police and CPS. On 12 June 2003, the complainant was informed, in response to a



subject access request, that the CPS held no personal data relating to the complainant. On 13 August and 21 August 2003, the function of the CPS was explained to the complainant by the Legal Secretariat to the Law Officers who also advised him to pass his allegations to the police or to seek independent advice.

- 4.7 The complainant has also made reference to a file held by the CPS and mentioned in a letter from it of 9 July 1996. This file had the reference number F/L/M/1251/93, and related to the complainant's allegations of a criminal offence. It appears that this file had held the police report on the case. Notwithstanding the fact that this file would not have contained the CPS notes, records, and assessments of the complainant's allegations because none were made, the Commissioner asked the CPS whether it was still held by the CPS. The CPS informed the Commissioner that a file with the reference FL/1251/93 was recorded as having been destroyed in 2003. The CPS stated that this file related to Hackney Council but that it could not say whether or not it related to the complainant's allegation.

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

- 5.1 The Commissioner finds that the Council wrongly claimed that the complainant's request for information was repeated. As explained in paragraph 4.2 (above), even though the complainant may previously have asked for the same or similar information, a request may only be judged as repeated if it has previously been made under the Act. Rights under section 1 of the Act came into force on 1 January 2005. The complaint's request was submitted for the first time under the Act on 26 January 2005.
- 5.2 However, although the Council stated that it considered the request to be repeated, it did not rely upon section 14 which provides that no response needs to be given to a repeated information request. On the contrary, as required by section 1(1)(a) of the Act, the Council advised the complainant that it did not hold information of the description specified in the complainant's request.
- 5.3 Although the complainant has asked the Commissioner to consider a contravention of section 14, whatever the statement made by the Council, it is clear that has not attempted to rely upon the provisions of this section.

## **6 Action Required**

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

## **7 Right of Appeal**



**Information Commissioner's Office**  
Promoting public access to official information  
and protecting your personal information

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  
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 13<sup>th</sup> day of July 2006**

**Signed .....**

**Phil Boyd**  
**Assistant Commissioner**

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



## **Annex**

Extract from letter of 8 January from complainant to public authority

“Is the CPS able to perceive the determination of [three names] and others to cover-up the criminal activities of [name] and her associates? Is the CPS able to understand the conspiracy organised by [two names] and their associates? Is the CPS able to understand the breaching of the three years old policy?

Does the CPS agree with my analysis of the letters sent to Brian Sedgemore MP by [three names] which contained lies designed to cover-up the [name/name] conspiracy?

Does the CPS agree with my analysis of [name]’s letter? Does the CPS agree that [name] repeatedly assured [name] and other councilors that her letter to [name] was totally truthful but refused to supply them with documents they were entitled to that would prove she was lying? Does the CPS agree that [name]’s obstructive tactics forced [name]’s group on Hackney Council to seek the help of their Party’s leadership?

Does the CPS agree that Ron Leighton MP obtained evidence to show that [name] lied to [name] in order to cover-up the part played in the [name/name] conspiracy by [name] and the conspiracy itself?

Will you identify a specific allegation made in the additional pages I have included with this letter that is not supported with documentary evidence.”