



FREEDOM OF INFORMATION ACT 2000 (SECTION 50)

DECISION NOTICE

Dated 7 April 2006

Name of Public Authority: **The Department for Regional Development
Northern Ireland**

Address of Public Authority: **Clarence Court
10-18 Adelaide Street
Belfast
BT2 8GB**

Summary Decision and Action Required

The Commissioner's decision in this matter is that the Department for Regional Development Northern Ireland has dealt with the Complainant's request in accordance with Part I of the Act. Therefore no remedial action is required.

1. Freedom of Information Act 2000 (the 'Act') – Applications for a Decision and the Duty of the Commissioner

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 Department has been dealt with in accordance with the requirements of Part I of the Freedom of Information Act 2000 (the 'Act').

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- the application has been withdrawn or abandoned,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.

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

The Complainant has advised that on 12 January 2005 the following information was requested from the Department for Regional Development

Northern Ireland (the "Department") in accordance with section 1 of the Act.

"I asked to see the workings underlying the calculation underlying the repeated public assertions by Roads Service that gritted roads carry 80% of traffic.

I should also like to see the calculations which were undertaken by Roads Service to derive the graph shown in Mr Orr's minute of 15 December 1997".

The Roads Service Northern Ireland is an executive agency of the Department. The Department responded to the Complainant on 10 February, stating that they had already provided some of this information in response to his request of 14 December 2005, and that they did not hold the remainder of the information he requested. During the course of further correspondence, the Complainant requested further information from the Department, which was provided to the Complainant.

The Complainant has alleged that:

- i) *The Department failed to comply with Section 1(1) of the Act because they provided the Complainant with information which they knew was not what he requested, and that the Complainant was not informed that alternative information was being provided.*
- ii) *The Department failed to comply with section 16(1) of the Act because they did not provide appropriate advice and assistance to the Complainant.*

3. Relevant Statutory Obligations under the Act

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."

Section 16 provides that:

"(1) 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 would propose to make, or have made, requests for information to it.

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

4. The Commissioner's Investigation

The Commissioner put the complaint to the Department and requested their comments and explanation.

The Department responded, indicating that:

- i) they did not hold part of the specific information requested, but they did provide the information they held, and provided further information in response to further requests from the Complainant
- ii) they accepted that there were deficiencies in the handling of the Complainant's request of 12 January 2005, in that they did not offer an internal review
- iii) in offering the Complainant a meeting to discuss his concerns they felt they had provided adequate advice and assistance

The Department did not accept that they provided information to the Complainant which was not what he requested. The Department indicated to the Commissioner that the Complainant made further requests for information on 10 February, 2 March, 3 June and 22 June, and the Department provided the information they held in response to these requests. The Complainant asked the Department to complete a table, and the Department did so. The Department explained the data they used to complete the table in their letter of 28 February. The Complainant indicated in his letter of 2 March that this was not what he requested, and the Department responded that they had provided the additional information in an effort to assist the Complainant, as they had already stated that they did not hold the specific information he requested.

In investigating this complaint, the Commissioner considered whether or not the Department had conformed to the Code of Practice produced under Section 45 of the Act (the "Code"), as referred to in Section 16(2) of the Act. Paragraph 8 of the Code states that:

"A request for information must adequately specify and describe the information sought by the applicant. Public authorities are entitled to ask for more detail, if needed, to enable them to identify and locate the information sought. Authorities should, as far as reasonably practicable, provide assistance to the applicant to enable him or her to describe more clearly the information requested".

The Code of Practice discusses advice and assistance in the context of clarifying a request for information. The Commissioner is of the view that the Complainant in this case did indicate clearly and specifically the information he sought. The Commissioner is mindful of the fact that the Complainant subsequently amended his original request, and that the Department provided additional information in response to these further requests.

In view of the fact that the Complainant had received the information that was held by the Department, the Commissioner explored the possibility of informal resolution of this complaint. The Complainant responded that he did not feel the Department had accepted that they had not handled his request correctly, and requested that a formal decision be made in relation to his complaint.

5. The Commissioner's Decision

The Commissioner's decision in this case is that the Department did comply with Part I of the Act in dealing with the Complainant's request of 12 January.

The Commissioner is satisfied that the Department did provide appropriate advice and assistance to the Complainant, as the Complainant did specify the information he was requesting, and the Department dealt with this specific request.

The Commissioner also considered the Complainant's assertion that the Department did not inform the Complainant that they were providing him with information which was not what he requested. It is the Commissioner's view that the Department did not breach any part of the Act in providing this additional information.

6. Action Required

No remedial action is required in this case, as the Commissioner is satisfied that the Department has complied with Part I of the Act.

7. 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 may be obtained from:

Information Tribunal	Tel: 0845 600 0877
Arnhem House Support Centre	Fax: 0116 249 4253
PO Box 6987	Email: informationtribunal@dca.gsi.gov.uk
Leicester	Web: www.informationtribunal.gov.uk
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 7th day of April 2006

Signed:

Phil Boyd
Assistant Commissioner
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire SK9 5AF