

Freedom of Information Report for 2006

This report documents Fofl activities for 2006 and has at the end, a summary of the 11 cases dealt with by the panel this year (27 were dealt with last year). The outcome of all of the panel cases dealt with has an element of refusal about them.

This is bound to be the case as more types of information get routinely released, and officers gain more confidence in what can be released. It will only be exceptional matters that will come up for panel consideration.

The year started quietly and then March and April saw an escalation in activity (although not necessarily requiring panel consideration), which tailed off during the summer and again saw a peak towards the end of the year.

The Planning Control section seem to get the most requests even though most information has been made routinely available for a number of years. This has however led to some confusion over what our obligations with regard to requests are. This has also been compounded by the fact that The Information Tribunal has dealt with planning matters under the Access to Environmental Information Regulations, which has slightly different rules. This has resulted in two appeals to the Information Commissioner, which are documented later on in this report.

There have also been one or two instances where sections did not identify requests at an early stage either because the requests did not refer to Freedom of Information or Environmental Regulations or because the request was buried in a letter also referring to other matters

This serves as a reminder to us all to ensure that all requests for information are dealt with in both a timely and efficient manner so we can continue our good record of efficient responses to requests for information however they are received.

As already mentioned, most requests are now dealt with without the need for the panel to have a formal meeting. Requests this year have ranged from how many virus attacks has our computer network suffered from through to the details of burials passed to the Treasury Solicitor.

We are continuing to receive a lot of commercial type enquires including the submission of questionnaires for completion. Assistance is provided where this is possible from officer knowledge. However, research is not carried out against submitted questionnaires, nor are any questions asking for the expression of an opinion responded to and a properly worded request is asked for instead to work against.

We have had four cases referred to the Information Commissioner, two of which relate to last years caseload, which considering the low number of refusals amounts to some 10% of the 38 cases assessed. If this is repeated all over the country it might explain why the Information Commissioners office has a backlog and it takes up to a year for a case to start being formally considered. They have now introduced a pre-case procedure with one of our cases being resolved at this stage.

The four cases are: -

1. A formal request was made for specific documents in relation to a planning application. In dealing with other matters the person was told to look at the files without a formal reply being sent addressing the request made and spelling out that the specific documents requested did not exist. The Information Commissioner found in favour of the appellant but because the documents did not exist and a letter of explanation had subsequently been sent no further action was necessary.
2. Request for priced up copy of a Council works contract that included work to the Leisure Centre. This was refused on commercial interest grounds (unpriced copy has been made available) – case outstanding
3. Name and address of persons requesting an election in a Parish. Resolved at informal **stage by the supply of the document** requesting election with the names and address removed. The Information Commissioner letter stated “I have to say that subject to there being an extraordinary set of circumstances that would warrant the contrary, this information, as you have already indicated, would be exempt under Section 40” The appellant accepted this and did not pursue the matter to the formal stage.
4. Allegation that the Council is holding “confidential material” with regard to a planning application and has not made it available under an Fofl request – case outstanding.

The Information Commissioner has announced that the resubmission of publication schemes for approval is to be delayed until sometime in 2008. This is to enable them to concentrate on dealing with current caseloads and to give more time to provide a “sector publication scheme pack” for each public body type. Public awareness of the publication schemes is not high but our scheme is now very out of date and a decision needs to be taken in the light of the above whether it is worthwhile to review this during the coming year as originally planned or leave it until required to do so.

The most pressing matter to deal with in 2007 will be, in the light of the “Markinson” Information tribunal decision, a review of our copying charge regime and to look again at whether charges should be applied to Environmental Information requests. It is also proposed to update the staff guidance notes and provide further guidance on the relationship between Freedom of Information and Environmental Regulations as cases are now emerging for the Information Commissioner’s Office that are providing useful advice with regard to this.

A further report on the issues raised in the last two paragraphs will come to Management Board on 6 February.

Linda Bestow
January 2007

Requests dealt with by the Freedom of Information panel in 2006

Summary of Request	Decision
Name and address of complaint on a Planning Enforcement matter	Refused - Data Protection
Schedule of works and access audit information for work at Leisure Centre	Allowed in part only (priced copy of tender document withheld – commercial interest)
Name and address of complaint on a Planning Enforcement matter	Refused - Data Protection
Correspondence relation to complaint re handling of planning application	Refused – Data Protection
Details of tourism complaints	Allowed in part commercial interest exception overruled by public interest test but summary only released as Data Protection not overruled
Correspondence relating to an Enforcement matter	Refused – investigations and proceedings by public authorities and Data Protection
Name and address of persons requesting an election in a parish	Refused - on Health and Safety and Data Protection
Internal exchange of correspondence regarding an unregistered planning application	Refused – legal professional privilege
Address of empty council houses	Refused - prevention and detection of crime (Numbers and types of properties in requested area supplied)
Copy of task and finish panel document re Leisure Centre contract	Allowed in part (only financial information redacted on grounds of commercial interest.
Copy of Leisure Centre Contract evaluation matrix	Refused – commercial interest