

Freedom of Information Act 2000 (Section 50)

Decision Notice

Date: 15 June 2011

Public Authority: City West Homes
Address: 21 Grosvenor Place
London
SW1X 7EA

Summary

The complainant submitted several requests to City West Homes ('CWH') for information about its policies and actions. The public authority withheld this information under section 14 of the Act on the grounds that the requests were vexatious. The Commissioner has investigated and found that the Council has applied section 14(1) to these requests correctly. The Commissioner does not require the Council to take any further action.

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.

Background

2. City West Homes is an Arms Length Management Organisation (ALMO) and a local authority controlled company owned solely by Westminster City Council ('the Council'). CWH was established in 2002 and manages the Council's housing stock. As set out in the Commissioner's [guidance](#) on publicly owned companies, ALMOs are public authorities for the purposes of the Act under section 6(2)(b).

The Request

3. On 19 May 2010 the complainant made a request for information to CWH.¹
4. On 24 May 2010, the complainant sent CWH two separate emails submitting requests for information.¹
5. The Council responded to these requests on 16 June 2010. The response concluded that these requests were vexatious and applied section 14(1). CWH has since confirmed to the Commissioner that this response was sent on its behalf, and that the Council's response represented its own position that the requests were vexatious.
6. On 30 June 2010, the complainant emailed the Council and explained that he was dissatisfied with this response. The Council acknowledged this as a request for internal review on 5 July 2010.
7. On 21 July 2010, the Council provided its internal review outcome to the complainant. This upheld the previous response and found that the requested information was correctly withheld under section 14.²
8. On 27 September 2010, the complainant emailed the Council to make another request for information.¹
9. CWH responded to this request on 28 October 2010. CWH applied the exemption at section 14(1) and stated that this was on the same basis as the assessment applied in the Council's response of 16 June 2010. CWH did not offer an internal review but advised the complainant to appeal directly to the Commissioner if he was dissatisfied with this response.
10. In emails submitted between 12 and 26 October, the complainant submitted further requests for information. CWH responded to these requests on 24 November 2010.¹ The response stated that information relevant to requests 1-3 was available for inspection in the Construction Phase Health and Safety file held onsite. The Council therefore stated that this information was exempt under section 21 of the Act on the basis that it was reasonably available to the complainant by other means. CWH applied section 14(1) to requests 4 - 15, and stated that this was on the same basis as the assessment applied in

¹ The complainant's requests for information are reproduced in Annex A.

² This internal review was conducted by the Council on behalf of CWH. CWH has explained to the Commissioner that it is its usual practice to ask that the Council conducts internal reviews of its responses.

the Council's response of 16 June 2010. CWH did not offer an internal review but advised the complainant to appeal directly to the Commissioner if he was dissatisfied with this response.

The Investigation

Scope of the case

11. On 23 August 2010, the complainant contacted the Commissioner to complain about the way the Council had handled his requests for information of 19 May and 24 May 2010. On 4 December 2010, the complainant contacted the Commissioner to complain about the way CWH had handled his requests of 27 September 2010. On 25 February 2011, the complainant contacted the Commissioner to complain about the response to his second request of 24 May 2010. As CWH has refused all of these requests under section 14 of the Act, the Commissioner has decided to consider all of the complaints together.
12. On 28 January 2011, it became clear that in fact, the requests of 19 and 24 May 2010 were originally submitted to CWH, although the Council responded. After CWH confirmed that this response was made on its behalf, the Commissioner commenced an investigation into whether CWH had dealt with all of the requests in accordance with the Act.

Chronology

13. On 12 November 2010, the Council provided the Commissioner with a submission about why it considered the requests were vexatious. On 14 December 2010, the Commissioner wrote to the Council with some further queries, and the Council provided a response on 14 January 2011. As outlined above, it became clear during the course of the investigation that the requests had in fact been submitted to CWH.
14. On 10 February 2011, CWH confirmed to the Commissioner that it relied upon the submissions made by the Council on 12 November 2010 and 14 January 2011 to support its argument that the requests were vexatious. CWH explained that it worked closely with the Council and shared resources on FOI matters, and that the contents of this submission represented its own view.
15. On 17 February 2011 and 2 March 2011 the Commissioner contacted CWH with some further queries. On both occasions CWH responded on the same day.

Analysis

Substantive Procedural Matters

Section 14

16. Section 14(1) of the Act provides that:

“Section 1(1) does not oblige a public authority to comply with a request for information if the request is vexatious.”

17. The Commissioner’s approach to what constitutes a vexatious request is outlined in his guidance ‘[Vexatious or repeated requests](#)’. The guidance sets out a number of points to consider in determining whether a request is vexatious, namely that:

- it would create a significant burden in terms of expense and distraction;
- it is designed to cause disruption or annoyance;
- it has the effect of harassing the public authority;
- it can otherwise fairly be characterised as obsessive or manifestly unreasonable; and
- it clearly does not have any serious purpose or value.

18. In establishing which, if any, of these factors apply, the Commissioner will consider the history and context of the request. In certain cases, a request may not be vexatious in isolation but when considered in context it may form a wider pattern of behaviour that makes it vexatious. The Information Tribunal upheld this approach in [Rigby v ICO and Blackpool, Fylde and Wyre Hospitals NHS Trust](#) (EA/2009/0103), commenting that:

“it is entirely appropriate and indeed necessary when considering whether a request is vexatious, to view that request in context”
(para 40)

The Commissioner recognises, however, that it is the request and not the requester that must be vexatious for section 14 to be engaged.

19. When investigating a public authority’s application of section 14(1), the Commissioner is also mindful of the Tribunal’s decision in [Hossack v the Information Commissioner](#) (EA/2007/0024). In that case, the Tribunal commented on the consequences of finding a request vexatious. It accepted that these are not as serious as those of

determining vexatious conduct in other contexts and consequently, the threshold for vexatious requests need not be set too high.

20. In determining whether section 14 was applied correctly, the Commissioner has considered the evidence provided by the Council and the complainant under each of the above headings, and the context and history of correspondence and contact up until the date of the request.

Would complying with the requests create a significant burden in terms of expense and distraction?

21. When considering whether this factor applies, the Commissioner would expect a public authority to be able to show that complying with the request would cause a significant burden in terms of both costs and diverting staff away from their core functions.
22. CWH has informed the Commissioner that between October 2008 and August 2010, the complainant submitted 46 requests for information. These are often composite requests and in total, the complainant has submitted over 445 separate questions during this period. CWH has logged over 90 hours spent on dealing with these requests. This does not include time spent discussing the requests and other queries with the complainant on the telephone, time spent on internal reviews, or internal discussions about the requests.
23. CWH explained that a significant proportion of this time was spent on determining if a request is valid, because the complainant's requests "sometimes cross-refer, interrelate and / or repeat...staff spend an inordinate amount of time on deciphering what is a valid FOI request and what is enquiry, rhetoric, personal comment, complaint or allegation". Between May 2009 and May 2010, the complainant on five separate occasions submitted multiple requests for information on the same day.
24. CWH stated that it is "becoming increasingly difficult to analyse, log, monitor and respond to the ever increasing amount of correspondence and the content contained therein". For example, CWH points out that the complainant's email of 24 May 2010 contains 30 questions, 18 of which are specifically labelled "information requests". However, as CWH correctly pointed out, it is still required to review all of the correspondence to determine if there are additional requests that need to be handled under the Act.
25. The complainant has previously been informed by CWH that it is struggling to deal with the level of his correspondence. However, the

complainant does not accept this, and appears to view the explanation as further evidence for his belief that CWH's staff are incompetent or dishonest. In an email of 24 May 2010, which itself contains several requests for information, the complainant writes

"[staff member A] is currently struggling to match up his statements that he is not ignoring my emails and yet receives too many from me to reply. I think he has realised that both these statements cannot be true and he is ignoring my invitation (by email) to choose".

CWH wrote to the complainant on 9 February 2010 to ask him to direct future correspondence to a nominated point of contact to avoid delays in responding to him. This message was reiterated on 15 February, 1 March and 19 May 2010. However, the complainant has continued to submit correspondence and requests to other members of staff.

26. CWH consequently argues that taken in context, compliance with the complainant's requests of 19 May, 24 May and 27 September 2010 would create a significant administrative burden.
27. In the Information Tribunal case of [Coggins v the Information Commissioner](#) (EA/2007/0130), the Tribunal found that a "significant administrative burden" was caused by the complainant's correspondence with the public authority that started in March 2005 and continued until the authority's application of section 14(1) in May 2007. Similarly, CWH has had to deal with the complainant's correspondence and requests over a sustained period.
28. CWH also argued that the provision of information is likely to lead to further correspondence and requests from the complainant. It explained that 25 of the complainant's 46 requests state that they have been sent in reference to information previously provided through FOI requests, memos, reports and consultation processes. In his request of 24 May 2010, the complainant writes:

"I think you may have broken the unwritten rule that the more you say about this the more questions arise".

In his email of 30 June 2010 the complainant requests:

"Please state your reasons from the ones available to you for declaring me vexatious. I know you don't like it because it only invites forensic analysis...What information do you have to show how this decision was taken? Who took it?...Was there a meeting? Where? When? Who was invited? Who attended? What

papers were distributed ahead of the meeting? Can I have copies? Can I have copies of individuals notes? Can I have copies of your request for people's notes and copies of their responses? Can I have copies of the minutes? Can I have all internal correspondence relating to this decision?"

29. The Commissioner believes that requests of this nature demonstrate that any responses made to the complainant are likely to trigger further information requests.
30. It is common for the complainant's correspondence to return to earlier matters, particularly where the complainant remains dissatisfied with the response. For example, when the complainant was dissatisfied with the outcome of an investigation into a complaint he had submitted, he made a number of requests for information about the way the investigation had been conducted. It would seem reasonable for CWH to consider that compliance would likely lead to further correspondence, thereby imposing a significant burden.
31. In terms of his request of 24 May 2010 for information about the investigation into bullying, the complainant argued that there would be no significant burden caused in terms of expense or time, because the costs of creating the information have already been incurred. The Commissioner accepts that where information is held, this is the case. Indeed, the Council would be under no obligation to create information to satisfy the complainant's requests under the Act. However, the Commissioner notes that the sheer volume of the complainant's requests creates a burden because of the staff time spent in extracting, logging and responding to them. In any case, the Commissioner notes that this request is not merely for information that may have already been produced, such as the anti-bullying policy. It also includes requests such as

"What information do you have to show what guidelines you followed to conduct your investigation? (i.e. did you make it up as you went along? Did you have experience in investigating complaints at CWH?"

In the case of requests of this nature, CWH may not hold any recorded information. However, it would be obliged under the Act to establish whether any information within the scope of the request is held, locate this, and provide a response compliant with the Act. Given the number of requests submitted by the complainant over a prolonged period, the Commissioner considers that this would create an administrative burden and have the effect of distracting staff from their other responsibilities.

32. In the context of this case the Commissioner considers that given the significant number of previous FOI requests that the complainant has submitted, compliance with the requests under consideration would create a significant burden in terms of expense and distraction. The Commissioner further notes that a response from the CWH to the complainant's requests is unlikely to satisfy the complainant. In answering these requests it seems likely that further correspondence, further requests and possibly complaints against individual officers would be forthcoming.

Could the requests fairly be categorised as obsessive?

33. In the Commissioner's view, the test to apply here is one of reasonableness. In other words, would a reasonable person describe the request as obsessive or manifestly unreasonable? In answering this question, the Commissioner's view is that the wider context and history of a request is important as it is unlikely that a one-off request could be obsessive.
34. The Commissioner's published guidance states:
- "A request may not be vexatious in isolation, but when considered in context (for example if it is the latest in a long series of overlapping requests or other correspondence) it may form part of a wider pattern of behaviour that makes it vexatious".
35. CWH argued given the history of the complainant's previous requests and correspondence, the requests are obsessive. CWH explained that the complainant has been dissatisfied by its actions on a range of issues for some time. This has led to a situation where the complainant uses FOI requests to try to obtain further information to pursue his complaints. Responses to these requests or attempts to engage with the complainant result in further requests which seek information about the way CWH has dealt with the correspondence.
36. For example, on 2 June 2010 the complainant sent an email of complaint to CWH. CWH explained that a member of staff sent a courtesy acknowledgment to the complainant, explaining that the intended recipient was out of the office so could not respond to the email immediately. Within 45 minutes, the complainant again emailed the CWH with the following requests:

"...This sort of unhelpfulness must stop. Have you contacted [staff member B] to alert him to this email? When did you do

that? How did you do that? Did he instruct you to send this email? Did he instruct you to request any information ahead of his undated return? How many calls have there been between your office and [staff member B] between 0900 today and 1241 today? How many emails have there been from your office to [staff member B] and 1241 today? Please confirm [staff member B] will take immediate action to bring your response up to the minimum legal requirements"

37. The Commissioner accepts that requests of this nature are obsessive, because it asks for excessive amounts of information about what would appear to be a normal course of business practice. He also concurs with CWH's point that complying with these requests would have the effect of staff being continually engaged in dealing with correspondence from the complainant.
38. The Tribunal in [Figg v Information Commissioner](#) commented on a request that the Commissioner had concluded was vexatious. The Tribunal stated that:

"the tone of the request itself... is unfortunate in that it implies guilt in the phrasing of the questions. In format, the information request adopts a somewhat forensic style which assumes that the Appellant is entitled to use FOIA to 'trap' the Council into making admissions that might assist him in his complaint. The Tribunal agrees with the Respondent that these factors are evidence of obsessive behaviour by the Appellant and that this is indicative of vexatiousness" (para 28)

39. The Commissioner notes that several of the complainant's requests are phrased to imply misconduct by CWH. For example, his email of 24 May 2010 for information about the allegation of bullying states:

"...did you pull this off by rigorous investigation and weighing up both sides or were [staff member C]'s assurances enough for you? Did you find no evidence by the tried and tested method of simply not asking for it?"

40. Several of the complainant's requests arise from complaints about other issues. The complainant uses the Act as a vehicle for pursuing his complaints about individual members of staff and their actions. For example, as well as his request and complaint about the investigation into bullying, the complainant also wrote to another member of Council staff to complain about the report, and in a section headed "Information Requests", submitted the following request:

"[staff member D] will not return my calls. WHY? [staff member D] will not respond to emails about this. WHY? What happened to the document I gave you? Did you hand this document to [staff member D]?"

41. The complainant argued that if CWH answered his questions, he would not need to make information requests with such frequency. He argues that there is "a closing of ranks". In particular, the complainant points to his request of 24 May 2010 for information into an allegation of bullying by a member of CWH staff. The complainant argues that he was not offered an appeal and believes the investigation was not conducted in accordance with policy and procedure.
42. In the Information Tribunal hearing of [Ahilathirunayagam v ICO and London Metropolitan University \[EA/2007/0024\]](#) the Tribunal stated that where a request appeared to be "intended simply to reopen issues which had been disputed several times before" it could rightly be judged as vexatious. The Commissioner considers that the request is clearly intended to progress an argument about the investigation into bullying which has been already been concluded by CWH. It is undoubtedly a further attempt to pursue issues which have already been addressed and as such, in line with the Commissioner's guidance, can be defined as obsessive.
43. The Commissioner understands that after criticisms and allegations against this member of staff, CWH appointed another member of staff to conduct an investigation. This complaint was not upheld, and CWH has informed the complainant that it will not continue to correspond on the subject. The Commissioner further notes that CWH has attempted to address the complainant's concerns on other matters, for example by convening a meeting between him and the Chief Executive of CWH, and inviting the complainant to set the agenda for any matters he wished to discuss. The complainant's use of the Act to attempt to reopen these issues leads the Commissioner to believe that the requests were vexatious.

Did the requests have the effect of harassing CWH?

44. This factor takes into account the effect a request has had on a public authority, regardless of the requestor's intention. This is an objective test, based on whether a reasonable person would be likely to regard the request as harassing or distressing.
45. The Commissioner has reviewed the correspondence sent to CWH by the complainant and has identified several occasions where the

complainant has accused CWH of misconduct or incompetence. For example, in an email of 21 March, the complainant writes:

"..the office culture at CWH is to blame your victims and hold to that position long after you all know you have made a mistake. This may have resulted in illegal activity; preventing the release of information that shows your errors".

On 3 March 2010 a member of CWH staff emailed the complainant to state that as set out in a previous response, it would not enter into any further correspondence regarding a complaint against another member of staff. The complainant responded by asking:

"Please can you tell me if there is any electronic footprint to show who delegated this staff member to send this extraordinarily unhelpful response? Did she do it all on her own?"

46. CWH also explains that in its opinion, many of the complainant's requests are designed to make criticisms of particular members of staff. For example, the complainant states that a member of Council staff mentioned at a meeting that his handwriting was not always legible. The complainant subsequently made the following request:

"...Have you received complaints about [staff member E] and his minute taking or public consultation abilities? Did the responses make reference to his handwriting skills or was an entirely different story offered?... How many complaints have you received about the management of meetings and / or public consultation by [staff member E]? How many responses referred to his handwriting? How many responses made no reference to his handwriting?"

47. In an email of 24 May 2010 to CWH's chief executive, the complainant states that "juggling the incompetence of colleagues is not leadership". In another email to the chief executive of 2 June 2010, the complainant comments:

"...I have obviously come across multiple examples of people blaming ex-colleagues for mistakes. However I have never seen this done by someone as senior as you. It is profoundly shocking. You are batting way below your pay grade....may I remind you that when you were interviewed for your prestigious post and the inevitable questions of corporate responsibility came up, you did not call a halt to proceedings, raise an imperious hand, and reveal that such impertinences would not apply under your rule as you had a plan: blame somebody who has left the

company...Please send me details of the personal in charge of corporate responsibility. Let hope its not [staff member C] or we may all be in trouble."

In an email of 6 June 2010 to the chief executive, the complainant wrote

"...I am seriously concerned that you are out of your depth or you rather hope that I am... you are not running the village shop".

On another occasion, CWH held a meeting with residents about a proposed roof replacement. The starting time of this meeting was moved from 6:30pm to 6pm because the room was not available after 8pm. However, the complainant implied that a member of CWH staff was lying about the availability of the room. On 19 May 2010, the complainant made the following requests:

"When was the room booked and by whom? What time slot did they book? Was the room not available after 8pm at the time of the original booking? Was the room booked after 8pm and when was any such booking made?"

In an email to of 27 May 2010, the complainant made the following supplementary requests:

"[staff member E] has fed us information that some residents struggle to believe. Do you also struggle to believe his statements?...Was the statement from [staff member E] that 'he felt it would be prudent to move the meeting to an earlier slot of 6pm' ever true? Did he know this was untrue at the time he made it? Was the statement that room was not available beyond 8pm ever true? Did [staff member E] know it to be untrue at the time he made it?... You must understand that having fed us false information there will be a great deal of concern that other statements made are true"

48. CWH has claimed that the complaint's targeting of individual members of staff through FOI requests has had an adverse effect on them. The Commissioner accepts that it is likely that a reasonable person would be likely to be harassed by the complainant's correspondence and requests, especially given that the requests often make direct reference to particular members of staff, and are copied to a large number of individuals.
49. In a telephone conversation with the Commissioner, the complainant argued that the tone or content of his correspondence was not relevant

to whether his requests for information were vexatious. The complainant explained that this was because he understood that the Human Rights Act 1998 afforded him the right to express his opinion as he saw fit, and the Freedom of Information Act did not override this. The Commissioner agrees that this is the case. However, the complainant's right to freedom of expression under the HRA has no effect on a public authority's right to deem a request vexatious under the Act.

50. The complainant also disputes CWH's contention that he has made allegations about members of staff. He states that:

"What are my allegations? Are they true or false? If they are true they are not allegations, they are statements of fact. This is an allegation that allegations exist. This is not proof...have they been investigated? Are they true?"

51. It seems that the complainant argues here that CWH should investigate all of the implied and explicit criticisms of staff in his requests before considering it as a factor in whether his requests are vexatious. However, the Commissioner does not accept that the Act is the appropriate vehicle for making complaints about the actions of CWH or members of its staff.
52. Given the length of time that CWH has been dealing with the complainant's requests, and the nature and phrasing of the enquiries, the Commissioner believes it is reasonable to conclude that the effect of the requests would be to harass the public authority and its staff.

Are the requests designed to cause disruption or annoyance?

53. In its submission to the Commissioner, CWH does not make any specific argument that the complainant's requests are designed to cause disruption or annoyance, and so the Commissioner has not gone on to investigate this point any further.

Did the requests lack any serious purpose or value?

54. Whether a request has value is not usually of significance given that the Act is not concerned with the motives of a requester, but rather with openness and transparency through the disclosure of information. However, the Commissioner acknowledges that should any authority be able to show that a request has no serious purpose or value, this may contribute to the justification for applying section 14(1).

55. The complainant has pointed out that CWH intends to spend a significant amount of money on a project at a building within its housing stock. He explains that he consequently is trying to ensure "due diligence" is paid to its activities.

56. CWH argues that the complainant's request of 19 May 2010 lacked serious purpose or value. This is because in the email making the request, the complainant confirms that he has already been informed that the Council does not possess any devices that can record meetings. He then goes on to pose the following questions:

"Do you have any information to show how many such devices (Dictaphones or similar) that CWH has purchased?

Do you have any information to suggest [staff member E] has tried to buy or borrow such a device? Are they all in use at 6:30 pm?"

57. In another email, the complainant makes the following request:

"What did [staff member B] do with the copy of the email addressed to [staff member B]? When I asked him he told me that he had 'no idea'".

58. CWH argues that the complainant's requests can have no serious purpose as the requests demonstrate that the complainant has already been told the answer to his questions. In an email of 30 June 2010, the complainant himself describes the request for information about Dictaphones as "apparently much more insignificant" in comparison to some of his other requests. However, the Commissioner's view is that the complainant sought to confirm or check the veracity of the information about the lack of recording devices imparted to him verbally by a member of staff, rather than posing requests with no purpose.

59. CWH also points out that in his email of 24 May 2010, the complainant writes that he provided a "multipage dossier" to support his complaint about a member of CWH staff. He then complains that he was not contacted for any further information during the investigation. However, in the same email, the complainant submitted the following requests for information:

"What information did you request from [the complainant] to inform your decision? What information did you receive from [the complainant] to inform your decision?"

60. The Commissioner accepts here that there is no serious purpose or value to this request, as the complainant has already indicated in the preceding paragraphs of the email that he is aware of the answers to these queries, because they relate to information that he has himself provided. It seems here that the complainant is using the Act to attempt to emphasise his complaint about the way the investigation was conducted. However, the Commissioner's view is that the Act is not the correct vehicle to make complaints about a public authority's services.
61. More generally, however, the Commissioner accepts that the complainant has genuine concerns over CWH's actions on a range of matters. He is therefore reluctant to conclude that there was no purpose or value in any of the complainant's requests.

Were the requests vexatious?

62. Section 14 of the Act is intended to protect public authorities from those who might abuse the right to request information. The Commissioner recognises that having to deal with clearly unreasonable requests can strain an organisation's resources, damage the credibility of the Act and get in the way of answering other requests.
63. He also acknowledges that there is sometimes a fine balancing act between protecting a public authority from frivolous applications and the promotion of transparency in the workings of an authority.
64. In considering the circumstances of this case in relation to the five questions set out above, the Commissioner acknowledges that to a greater or lesser extent they overlap, and that the weight accorded to each will depend on the circumstances. He also reiterates that, in his view, it is not necessary for every factor relevant to vexatious requests to be satisfied in order to refuse a request on the basis of section 14(1).
65. In this case, the Commissioner considers that although the complainant clearly has concerns about the actions and management of CWH and its staff, CWH has presented cogent evidence to suggest that the requests are obsessive, have the effect of harassing the public authority and creating a significant burden in terms of expense and distraction. This is particularly the case because of the volume of the complainant's requests, and the fact that they often imply criticisms or accusations against particular members of staff. The Commissioner also considers that given the past correspondence with the

complainant, any response provided to the requests is likely to result in further supplementary requests and correspondence.

66. Consequently, the Commissioner finds that CWH has correctly applied section 14(1) to the complainant's requests.

The Decision

67. The Commissioner's decision is that CWH has correctly applied section 14(1) to the complainant's requests.

Steps Required

68. The Commissioner does not require CWH to take any further action.

Other matters

69. Although it does not form part of the decision notice, the Commissioner wishes to highlight the following matter:
70. As detailed in paragraph 12 of this decision notice, Westminster Council responded to some of the requests on behalf of City West Homes. The Commissioner understands that the two public authorities work closely together and share some resources when handling requests for information.
71. In this case, the complainant originally submitted requests for information to CWH. Westminster Council responded to these requests, but did not explain that it did so on behalf of CWH. The complainant then submitted complaints to the Commissioner about Westminster Council. This was a reasonable course of action, given that the Council had issued the response. However, the Commissioner could not investigate Westminster Council, as the requests were in fact made to CWH, a separate public authority in its own right.
72. CWH is entitled to allow Westminster Council to respond to requests for information on its behalf. However, it would be good practice for the Council to detail in the response that it is responding on behalf of CWH, particularly as it would help to avoid the confusion that has inevitably arisen in this complaint.

Right of Appeal

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

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals,
PO Box 9300,
Arnhem House,
31, Waterloo Way,
LEICESTER,
LE1 8DJ

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 sent.

Dated the 15th day of June 2011

Signed

**Andrew White
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF**

Annex A – Complainant's requests to CWH

Request of 22 February 2010

- 1) Do you have a bullying policy? Please may I have a copy?
- 2) Do you take accusations of bullying seriously?
- 3) I have tried and failed to register a complaint against [staff member C] about bullying. Why have my accusations not been investigated?

Request of 19 May 2010

- 1) Do you have any information to show how many such devices (Dictaphones or similar) that CWH has or has purchased?
- 2) Do your village managers have spending power up to the 24.99 required to get one of these from Argos (or similar)?
- 3) Whose authority do they need to spend this amount of money?
- 4) Do you have any information to show [staff member E] has tried to buy or borrow such a device? Are they all in use at 6:30pm?
- 5) Please can we have a copy of the original notes [staff member E] has taken for this meeting as well as the most recent meeting for our gates consultation.
- 6) Do you have any information to suggest that my complaints about this consultation have been dealt with in accordance with your complaints procedure (or indeed have been dealt with at all)?

Around four hours later, the complainant amended his request to include the following questions:

- 7) Do you have information to show quite how [staff member F] has dealt with the emails sent to her by you and other colleagues to deal with on my behalf?
- 8) Have you received complaints about [staff member E] and his minute taking and or public consultation abilities? Did the response make reference to his handwriting skills or was an entirely different story offered? Please send copies of all requests internal and external that refer to [staff member E] and minutes and / or

management of public consultation. This should include but not be limited to any internal requests to him for information ahead of responding to any complaints and / or information requests. How many complaints have you received about the management of meeting and / or public consultation by [staff member E]? How many requests referred to his handwriting? How many responses made no reference to his handwriting?

Request one of 24 May 2010

The complainant wrote to CWH to complain about a survey previously disclosed to him. Within the complaint, the complainant made the following requests:

- 1) Who removed it [a date on the survey]? When? Why? Please ask your IT people when this report was last amended, how long the amendment took, and on whose log-in it was performed. Please note the report is detailed enough to report the weather but not the date of the inspection. WHY?
- 2) ...this inspection took place AFTER [staff member E] declared the roof in need of replacement. How did he know?
- 3) Is it conceivable that [staff member A] removed the date from his own report to accidentally disguise the fact that [staff member E] had declared the roof in need of replacement before the inspection?
- 4) The main resistance for a review seems to come from those whose work we want reviewed. Why do you accept this? Given that you do not know yet what the quotes are for this project how do you know there are no funds to conduct an independent survey?
- 5) Why have the required signatures not been obtained to support this project? Why are you going ahead without them?... Why have you got this far without resident signatures? What date will you ask for them?
- 6) I have complained about the vote and my complaint has been ignored. Why? What will you do about this? The vote lacks credibility and complaints about it have been ignored. Why?

Request 2 of 24 May 2010

The complainant had previously made an allegation of bullying against one of CWH's staff, [staff member C]. This was investigated by [staff member D]

who did not uphold the complaint. The complainant requested the following information:

- 1) Please provide a copy of the request you received to investigate this complaint. Who asked you to investigate? What exactly did they ask you to investigate?
- 2) When did you receive the request to investigate?
- 3) When did you start the investigation?
- 4) When did you conclude the investigation?
- 5) What information do you have to show what guidelines you followed to conduct your investigation (i.e. did you make it up as you went along? Did you have experience in investigating complaints at CWH?)
- 6) Were you asked to investigate a charge of bullying? Please send me a copy
- 7) What is your anti bullying policy?
- 8) Did you refer to a copy during your investigation?
- 9) What attempts did you make to match the allegation to the policy?
- 10) What information did you request from [staff member C] to inform your decision?
- 11) What information did you receive from [staff member C] to inform you decision?
- 12) What information did you request from [the complainant] to inform your decision?
- 13) What information did you receive from [the complainant] to inform you decision?
- 14) What information did you request from other sources to inform your decision?
- 15) What information did you receive from other sources to inform your decision?
- 16) What formal appeal structure did you offer?

Request of 27 September 2010

The complainant requested the following information in relation to [staff member D]:

- 1) What are her qualifications?
- 2) Who awarded them?
- 3) Who accredited them?
- 4) Please may I have a copy of her job description?
- 5) Please may I have a copy of her job application with personal but not professional information redacted.
- 6) Please send me details of any professional membership bodies to which [staff member D] is a member

Requests submitted between 12 and 26 October 2010

The complainant has not provided the Commissioner with copies of the original requests for information but the Council's response, which provides a response to several requests apparently submitted on various dates. Because of this, the Commissioner cannot detail the exact date each request was sent on. The requests relate to a building maintenance project that was taking place at a housing site managed by CWH.

- 1) Copy of risk assessment
- 2) Copy of method statement
- 3) Copy of tested debris report
- 4) Entire email collection to and from Breyer about this matter
- 5) Copy of tender documents showing what is expected from the named H&S manager
- 6) Copy of Breyer bid
- 7) Copy of initial report on inspection carried out on 20 October and the follow up report

- 8) Copy of risk assessment carried out before hard hat wearing was deregulated
- 9) Copy of the deregulation
- 10) Copy of the report of visit on 19th Oct
- 11) Copy of information about the safety concern with the hoist
- 12) Please send any information to show what hospitality has been accepted by CWH staff from Breyer in last two years
- 13) Copy of health and safety policy
- 14) List of professional bodies to which unnamed colleague belongs
- 15) Your request to BREYER about information falling from roof and their response

Legal Annex

General Right of Access

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."

Vexatious or Repeated Requests

Section 14(1) provides that –

"Section 1(1) does not oblige a public authority to comply with a request for information if the request is vexatious"

Section 17(5) provides that –

"A public authority which, in relation to any request for information, is relying on a claim that section 12 or 14 applies must, within the time for complying with section 1(1), give the applicant a notice stating that fact."