

FREEDOM OF INFORMATION ACT 2000 (SECTION 50)

DECISION NOTICE

Dated 5th October 2005

Name of Public Authority: Melton Borough Council

Address of Public Authority: Council Offices
Nottingham Rd
Melton Mowbray
Leicestershire
LE13 0UL

Nature of Complaint

The Information Commissioner (the "Commissioner") has received a complaint which states that on 3rd April 2005 the following information was requested from Melton Borough Council under section 1 of the Freedom of Information Act 2000 (the "Act"):

- (1) "...kindly advise me, in percentage terms, as to approximately what proportion of Council Tax is devoted to the collection/disposal of household waste in the Melton area"; and
- (2) "Additionally, please advise as to whether or not the MBC uses 'plastic' cups for dispensing beverages and drinking water to its staff. If it does, how many such cups are purchased annually for use across its various office sites, in total, and what is the annual cost of such purchases?"

It is alleged that:

- (i) The information requested was not provided in full
- (ii) The requests were not responded to within 20 working days.

The Commissioner's Decision

Under section 50(1) of the Act, except where a complainant has failed to exhaust a local complaints procedure, or where the complaint is frivolous or vexatious, subject to undue delay, or has been withdrawn, the Commissioner is under a duty to consider whether the request for information has been dealt with in accordance with the requirements of Part I of the Act and to issue a Decision Notice to both the complainant and the public authority.

The Commissioner's decision is as follows:

- (i) Melton Borough Council were able to provide some information to the complainant in response to his request. In addition to this, in the case of (1) they have advised the complainant of an alternative public authority that may be able to answer a similar request fully and, in the case of (2), they have explained to the complainant why some of the information was not held. The Information Commissioner is satisfied that the information not provided is not held by Melton Borough Council and therefore cannot be provided to the complainant. Melton Borough Council is consequently not in breach of section 1(1) of the Act.

Reference: FS50074785

Section 1(1) of the Act states:

“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.”

(ii) The complainant made his request by letter dated 3rd April 2005. Melton Borough Council did not reply to the request until 14th June 2005. Melton Borough Council has therefore not dealt with the complainant’s request in accordance with the requirements of Part I of the Act in that it has failed to comply with section 10(1).

Section 10(1) of the Act states:

“...a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt.”

Action Required

Whilst the complaint about the timing of the response to the information request was upheld, this contravention has been resolved as the public authority did respond to the request. In this instance the Commissioner hereby gives notice that he does not require any remedial steps to be taken by Melton Borough Council.

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 can be obtained from:

Information Tribunal	Tel: 0845 6000 877
Arnhem House Support Centre	Fax: 0116 249 4253
PO Box 6987	Email: informationtribunal@dca.gsi.gov.uk
Leicester, 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 5th day of October 2005

Signed:

Graham Smith
Deputy Commissioner

Information Commissioner
Wycliffe House
Water Lane
Wilmslow
Cheshire SK9 5AF