

## FREEDOM OF INFORMATION ACT 2000 (SECTION 50)

### DECISION NOTICE

**Dated 14 July 2005**

**Name of Public Authority:** Ferryhill Town Council  
**Address of Public Authority:** The Town Hall  
Ferryhill  
County Durham  
DL17 8JL

### **Nature of Complaint**

The Information Commissioner (the "Commissioner") has received a complaint which states that on 17 January 2005 the following information was requested from Ferryhill Town Council under section 1 of the Freedom of Information Act 2000 (the "Act"):

- "The full details of the questionnaire/survey which was circulated to all allotment holders along with the policy document."
- "A full and detailed explanation of what type of work the Council requires allotment holders to do should they agree to the Council's proposed 'self-management' scheme."
- "The vacancies that exist on each of the Council's allotment sites."
- "The number of people on any waiting lists that may exist site by site."
- "The number of people who have applied for an allotment in the past 2 years."
- "The full details of the agreement by which the Council purchased the Stores House, Paxton Street and east end allotment sites including the covenant attached to that agreement."
- "Information about the proposed sale of the Store House site including: Evidence supporting the status of the Stores House sites; Information about the organisations who have indicated an interest in the proposed sale of the Stores House site; Details of how and when the Council intend to carry out the policy."
- "In relation to the lease of the Chapel Row and Feversham allotment sites: Copies of all correspondence relating to the Council's disposal of the Chapel Row and Feversham allotment sites; the date of the meeting and a copy of the minutes when the Council adopted the policy of disposing of its three leased allotment sites; copies of the leased agreements the Council has for each of its three leased sites."
- "Details of the content of the 12 May meeting between the Chief Executive, Councillor Lamb and Mr G. Cant."

- “Details of any other proposals the Council have for the disposal of the Broom site.”
- “Full details of the income and expenditure relating to all of the Council’s recreation services with each service shown separately.”

It is alleged that:

(1) The Fees Notice issued by Ferryhill Town Council to the complainant was not calculated in accordance with the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 (the “Regulations”).

(2) Ferryhill Town Council did not provide the complainant with advice and assistance with regard to his request.

### **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 has 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:

(1) Ferryhill Town Council’s letter to the complainant of 19 January 2005 constituted a Fees Notice calculated in accordance with the Regulations as stated in section 9(3) of the Act. Section 9(3) states:

“Subject to subsection (5), any fee under this section must be determined by the public authority in accordance with the regulations made by the Secretary of State.”

(2) Ferryhill Town Council failed to provide advice and assistance in accordance with section 16(1). Section 16(1) states:

“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 who propose to make, or have made, requests for information to do it.”

### **Action Required**

In view of the matters referred to above the Commissioner hereby gives notice that in exercise of his powers under section 50 of the Act he requires that Ferryhill Town Council shall, within 30 days of the date of this Decision Notice –

Provide the complainant with advice and assistance in accordance with section 16(1) of the Act.

Reference: FS50075378

## 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: <a href="mailto:informationtribunal@dca.gsi.gov.uk">informationtribunal@dca.gsi.gov.uk</a>
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 14th day of July 2005

Signed: .....

Graham Smith  
Deputy Commissioner

Information Commissioner  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF