

FREEDOM OF INFORMATION ACT 2000 (SECTION 50)

DECISION NOTICE

Dated 24 November 2005

Name of Public Authority: South Stoke Parish Council

Address of Public Authority: Packhorse Cottage
South Stoke
BATH
BA2 7DX

Nature of Complaint

The Information Commissioner (the "Commissioner") has received a complaint which states that on 26 March 2005 the following information was requested from South Stoke Parish Council (the "Council") under section 1 of the Freedom of Information Act 2000 (the "Act"):

- All information held by South Stoke Parish Council relating to the Fullers Earth Site, covering the period from 1 August 2003 to the present day.

It is alleged that:

- (1) The Council did not communicate the information specified in the request within twenty working days.
- (2) The Council did not provide a valid reason for refusing to disclose the information specified in the 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a local complaints procedure, or where the complaint is frivolous or vexatious, subject to undue delay, or has been withdrawn, the Commissioner is under a duty to consider whether the request for information has been dealt with in accordance with the requirements of Part I of the Act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:

The request was submitted via e-mail on 26 March 2005. The Council sent responses via e-mail on 20 April 2005, 1 June 2005 and 4 June 2005. In these responses, the Council did not: (a) confirm or deny whether the information specified in the request was held; (b) communicate the information specified in the request or (c) refuse to provide the information specified in the request for valid reasons as set out in the Act. Following the intervention of the Commissioner's Office the Council communicated the information specified in the request on 25 October 2005.

The Commissioner's decision in this case is that the Council did not deal with the complainant's request in accordance with the requirements of Part I of the Act in that it failed to either comply with section 1(1) or section 17 within the time limit set out in section 10(1).

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."

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."

Section 17(1) of the Act states:

"A public authority which, in relation to any request for information, is to any extent relying on a claim that any provision of Part II relating to the duty to confirm or deny is relevant to the request or an a claim that the information is exempt information must, within the time for complying with section 1(1), give the applicant a notice which -

- (a) states that fact,
- (b) specifies the exemption in question, and
- (c) states (if that would not otherwise be apparent) why the exemption applies."

Action Required

In view of the matters referred to above the Commissioner hereby gives notice that he does not require any remedial steps to be taken by Southstoke Parish 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 24th day of November 2005

Signed:

Graham Smith
Deputy Commissioner

Information Commissioner
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF