

FREEDOM OF INFORMATION ACT 2000 (SECTION 50)

DECISION NOTICE

Dated 14 February 2006

Name of Public Authority: Kerrier District Council
Address of Public Authority: Council Offices
Dolcoath Avenue
Camborne
TR14 8SX

Nature of Complaint

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

1. The report by the Council's employee suggesting that no enforcement action be taken and that the matter should be dealt with as one of expediency.
2. Copies of the communications sent to the three councillors advising them that the matter would be dealt with using the powers of delegation if no reply was received from them to the contrary.
3. Copies of any notes sent with these communications.
4. A statement as to the date these notices were sent out and the method of despatch – including the date of posting and the postal fee paid on despatch if they were sent by Royal Mail.
5. A statement as to what action, if any, was taken by Council employees of any grade to ensure that each Councillor would, in fact, be in the area between expected time of delivery of the communication to his/her address and the time by which replies had to be given to the Planning Department.

It is alleged that:

Kerrier District Council failed to provide the requested information 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a local complaints procedure, or where the complaint is frivolous or vexatious, subject to undue delay, or has been withdrawn, the Commissioner is under a duty to consider whether the request for information has been dealt with in accordance with the requirements of Part I of the Act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 complainant submitted an information request dated the 3rd February 2005. This was received by the Council on the 7th February 2005 and acknowledged on the 9th February 2005. By letter dated the 7th March the Council provided the information requested in relation to requests 1, 2 and 4, as above. This letter also stated that no information exists in relation to requests 3 and 5.

The complainant does not dispute the contents of the Council's response and is satisfied that they answer his request of the 3rd February. However the complainant is of the view that by responding on the 7th March 2005 they have failed to respond within the 20 working day limit prescribed by the Act.

The Commissioner's decision is that the Council have met the time for compliance under section 10 of the Act. This is because the request was sent on the 3rd February 2005 and received on the 7th February 2005. The twenty working day period begins on the 8th February 2005 and ends on the 7th March 2005. By responding on the 7th March 2005, the Council has complied with the time for compliance limit under section 10.

Section 10 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

In view of these matters the Commissioner hereby gives notice that in exercise of his powers under section 50 of the Act he does not require any remedial steps to be taken by Kerrier District 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.

Reference: FS50072193

Dated the 14th day of February 2006

Signed:

Graham Smith
Deputy Commissioner

Information Commissioner
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF