



Freedom of Information Act 2000 (Section 50)

Decision Notice

Dated 10 April 2006

Public Authority: Duffield Parish Council

**Address: The Rowans
Upperwood
Matlock Bath
Derbyshire
DE4 3PE**

Summary Decision and Action Required

The Commissioner's decision in this matter is that the Public Authority has not dealt with the Complainant's request in accordance with Part I of the Act in that it has failed to comply with its obligations under section 1(1).

The response to the information request from the Public Authority neither provided the information requested nor gave a reason valid under the Act for why this information would not be provided. This response did not, therefore, fulfil the requirements of section 1 of the Act.

No action is required as, following the intervention of the Commissioner, the Public Authority has now responded in accordance with the requirements of section 1(1).

1. Freedom of Information Act 2000 (the 'Act') – Applications for a Decision and the Duty of the Commissioner

1.1 The Information Commissioner (the 'Commissioner') has received an application for a decision whether, in any specified respect, the Complainant's request for information made to the Public Authority has been dealt with in accordance with the requirements of Part I of the Freedom of Information Act 2000 (the 'Act').

1.2 Where a complainant has made an application for a decision, unless:

- a complainant has failed to exhaust a local complaints procedure, or**
- the application is frivolous or vexatious, or**
- the application has been subject to undue delay, or**
- the application has been withdrawn or abandoned,**

the Commissioner is under a duty to make a decision.

- 1.3 The Commissioner shall either notify the complainant that he has not made a decision (and his grounds for not doing so) or shall serve a notice of his decision on both the complainant and the public authority.

2. The Complaint

- 2.1 The Complainant has advised that on 5 January 2005 the following information was requested from the Public Authority in accordance with section 1 of the Act.

- 2.2 “1) What hire charge are Allestree Football Club paying for the new pitch, how does this compare with the normal hire charge, and on an annual basis, what will be the reduced hire charge income received by the Parish Council?

2) What is the cost of the pitch maintenance and marking and what will Allestree Football Club contribute to this?”

The Public Authority responded to this on 18 January 2005, stating only that the information requested would not be provided as the Public Authority believed that all relevant information had been provided to the complainant previously in response to requests for this information made prior to the Act coming into force on 1 January 2005. Further correspondence was exchanged between the complainant and the Public Authority following the response to the information request, but the Public Authority maintained that they would not provide any information to the complainant.

3. Relevant Statutory Obligations under the Act

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.”

4. Review of the case

- 4.1 The complainant contacted the Commissioner to complain about the failure of the Public Authority to provide the information requested. The Commissioner contacted the Public Authority on 14 December 2005 to raise the issue with them. The initial response from the Public Authority, dated 21 December 2005, repeated their stance that it was not necessary for them to comply with the information request of 5 January 2005 as they had previously supplied this information to the requester.

- 4.2 The Commissioner contacted the Public Authority again on 4 January 2006 and advised them that having supplied information in response to similar requests made prior to the Act coming into force would not exempt them from complying with the request of 5 January 2005 in accordance with the provisions of the Act. In response to this advice, the Public Authority wrote to the complainant on 24 January 2006 providing a response compliant with section 1(1) of the Act.

5. The Commissioner's Decision

- 5.1 The Commissioner's decision in this matter is that the Public Authority has not dealt with the Complainant's request in accordance with the following requirements of Part I of the Act:

Section 1(1) – in that it failed to inform the Complainant in writing whether it held information of the description specified in the complainant's request and to communicate to the Complainant such of the information specified in his request as did not fall within any of the absolute exemptions from the right of access nor within any of the qualified exemptions under which the consideration of the public interest in accordance with section 2 would authorize the Public Authority to refuse access.

The complainant maintains that the information request has not been responded to in accordance with section 1(1) in that the information requested has not been provided. However, the Information Commissioner has had sight of the response from the Public Authority dated 24 January 2006 and believes that this does provide the information requested.

6. Action Required

- 6.1 Whilst this Decision Notice does conclude that the information request was not dealt with in accordance with the requirements of the Act, the Public Authority has now provided an appropriate response to the complainant. Despite the complainant's representations to the contrary, there is no evidence available to the Commissioner that suggests that there are further steps that it is necessary for the Public Authority to take.

7. Right of Appeal

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

Information Tribunal
Arnhem House Support Centre
PO Box 6987
Leicester
LE1 6ZX

Tel: 0845 600 0877
Fax: 0116 249 4253
Email: informationtribunal@dca.gsi.gov.uk

- 7.2 Any Notice of Appeal should be served on the Tribunal within 28 days of the date on which this Decision Notice is served.

Reference: FS50083794

Dated the 10th day of April 2006

Signed

**Phil Boyd
Assistant Commissioner**

**Information Commissioner
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF**