

FREEDOM OF INFORMATION ACT 2000 (SECTION 50)

DECISION NOTICE

Dated 13 December 2005

Name of Public Authority: Swindon Borough Council

**Address of Public Authority: Civic Offices
Euclid Street
Swindon
SN1 2JH**

Nature of Complaint

The Information Commissioner (the "Commissioner") has received a complaint which states that on 10 February 2005 the following information was requested from Swindon Borough Council (the "Council") under section 1 of the Freedom of Information Act 2000 (the "Act"):

"The minutes and/or notes of all meetings held by the working groups set up as part of the sub-regional study for Swindon."

It is alleged that the Council failed to either communicate the information specified in the request or provide a valid reason for refusing the request within the statutory twenty working day time limit.

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a local complaints procedure, or where the complaint is frivolous or vexatious, subject to undue delay, or has been withdrawn, the Commissioner is under a duty to consider whether the request for information has been dealt with in accordance with the requirements of Part I of the Act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 on the specific issue as to time for compliance with the complainant's request is as follows:

The complainant did not receive a response from the Council until the 27 May 2005 when the Council sent an e-mail which stated that the information specified in the request would not be disclosed because "...it would not be in the public interest and would be prejudicial to proper administration." This response did not comply with the criteria for refusing requests set out in section 17 of the Act. Following the intervention of the Commissioner, on 12 October 2005 the Council issued a response to the complainant which complied with section 17 of the Act.

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 Swindon Borough Council as regards the specific issue as to time for compliance.

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
Arnhem House Support Centre
PO Box 6987
Leicester

Tel: 0845 6000 877
Fax: 0116 249 4253
Email: informationtribunal@dca.gsi.gov.uk

Reference: FS50079476

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 13th day of December 2005

Signed:

Richard Thomas
Information Commissioner

Information Commissioner
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF