

**FREEDOM OF INFORMATION ACT 2000 (SECTION 50)**

**DECISION NOTICE**

**Dated 7<sup>th</sup> December 2005**

**Name of Public Authority: Sandwell Metropolitan Borough Council**

**Address of Public Authority: Sandwell Council House  
Oldbury  
Sandwell  
West Midlands  
B69 3DE**

**Nature of Complaint**

The Information Commissioner (the "Commissioner") has received a complaint which states that on the 28<sup>th</sup> March 2005 the following information was requested from Sandwell MBC (the "Council") under section 1 of the Freedom of Information Act 2000 (the "Act"):

Copies of Groundcare inspection reports for the Brades Green Play Area in Oldbury for the weeks ending the 24<sup>th</sup> and 31<sup>st</sup> of July 2004 and information on the frequency and times of visits to the Brades Green Play Area.

(The complainant widened his request, in correspondence of the 10<sup>th</sup> May 2005, to include the Groundcare inspection reports for the weeks ending the 17<sup>th</sup> of July and 7<sup>th</sup> of August. This additional request is excluded from the provisions of this Decision Notice because the Council responded appropriately to the latter information request)

It is alleged that:

Sandwell MBC failed to provide the Groundcare inspection reports for the weeks ending the 24<sup>th</sup> and 31<sup>st</sup> of July 2004.

**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a local complaints procedure, or where the complaint is frivolous or vexatious, subject to undue delay, or has been withdrawn, the Commissioner is under a duty to consider whether the request for information has been dealt with in accordance with the requirements of Part I of the Act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 complainant submitted his initial request on the 28<sup>th</sup> March 2005 and received a response from the Council on the 8<sup>th</sup> April 2005. This response explained that information regarding the frequency, and times, of visits does not exist and that the Council were experiencing difficulties locating the Groundcare inspection reports for weeks ending the 14<sup>th</sup> and 31<sup>st</sup> of July.

On the 10<sup>th</sup> May 2005, the complainant followed up on the outstanding Groundcare inspection reports with the Council, and widened the request to include the reports for two weeks either side of the initial request period. On the 13<sup>th</sup> May 2005, the Council provided copies of the Groundcare inspection reports for the weeks ending the 17<sup>th</sup> July 2004 and 7<sup>th</sup> August 2004. However, the outstanding reports from the original request were not provided.

Following an internal review the Council found that it was unlikely that Groundcare inspections had been conducted on the weeks in question and therefore there was no further information to provide in relation to this request. This is the basis upon which the complainant asked the Commissioner to investigate.

Following an investigation, the Information Commissioner is satisfied that no further information exists in relation to this information request. The Commissioner has been assured that, following an extensive search of the Council's records, no further information exists. The Council recognises that their statement, that they would continue to seek the reports in question, may have unintentionally misled the complainant into believing that the Groundcare inspection reports did exist. However, the Council maintains that this statement was intended to satisfy section 16 of the Act, by providing advice and assistance to the complainant (Council officers are encouraged to interpret section 16 as a general duty to be helpful). The Council's records management policies allowed them to recognise quickly that the reports were not present. At the time, the Council was unable to tell whether the records had ever existed and this prompted the statement of the 8<sup>th</sup> April 2005, stating that they would continue to seek the information.

Following an internal review the Council were able to ascertain that there were no reports for the two periods because no inspections had been carried out during that period of time. On this basis, the Information Commissioner is satisfied that the Council has fulfilled its obligations under section 1 of the Act.

### **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 Sandwell MBC.

Reference: FS50087297

## 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 7th day of December 2005

Signed: .....

Graham Smith – Deputy Commissioner

Information Commissioner  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF