

FREEDOM OF INFORMATION ACT 2000 (SECTION 50)

DECISION NOTICE

Dated 13th February 2006

Name of Public Authority: Tandridge District Council
Address of Public Authority: The Council Offices
Station Rd East
Oxted
Surrey
RH8 0BT

Nature of Complaint

The Information Commissioner (the "Commissioner") has received a complaint from the above person (the "complainant") which states that on 10th February 2005 the following information was requested from Tandridge District Council (the "Council") under section 1 of the Freedom of Information Act 2000 (the "Act") (The wording of the initial information request is as it is here but the layout is not. It has been broken down into the following 10 points for the purposes of this Decision Notice):

Copies of all information relating to:

- (i) The commissioning of **[name redacted]** report and all subsequent communication with him
- (ii) Appraisal and use (including non use) by Tandridge District Council of **[name redacted]** report of 5th December 2003
- (iii) The extent to which members of the Development Committee were aware of the contents of the report and the extent of its consideration in the Committee
- (iv) Why a second report from a different source was commissioned
- (v) Communication with the author of this second report and his colleagues before during and after the report was produced
- (vi) Appraisal and use by Tandridge District Council of this report
- (vii) The extent to which the Development Committee was aware of the contents of the report and the extent of its consideration in the Committee
- (viii) The submission by Tandridge District Council of each report to any subsequent appeal, court proceeding or any other hearing relating to **[name redacted]** occupation of park mews

(ix) The evidence submitted by Tandridge District Council in relation to each of the reports and the extent to which each report was considered in these contexts and its impact on the outcome

(x) Whether either report was made available to [name redacted] in relation to any appeal etc and if not why not.

It is alleged that:

The Council did not respond to the request appropriately in accordance with the requirements of the Act.

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a local complaints procedure, or where the complaint is frivolous or vexatious, subject to undue delay, or has been withdrawn, the Commissioner is under a duty to consider whether the request for information has been dealt with in accordance with the requirements of Part I of the Act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 Council responded to the request initially on 2nd March 2005. Following letters from the complainant, the Council responded further on 3rd & 12th May 2005. The complainant was not satisfied that the Council had complied with the Act and contacted the Information Commissioner. In order to ensure that all aspects of the initial request were clear, the Commissioner contacted the Council, supplying the request broken down into individual bullet points, as above. The Council were asked to confirm that all aspects of the request had been responded to. In response to this, the Council stated that they had responded in full to the request.

The Commissioner is not satisfied that all aspects of the request were responded to. Some of the aspects of the request were addressed, although this was in a limited fashion that did not fulfil the requirements of section 1 of the Act. Many aspects of the request were not responded to at all. The decision of the Commissioner is therefore that the Council have failed to respond to the information request in accordance with the requirements of Part I of the Act in that they have contravened section 1(1) of the Act.

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.”

Action Required

In view of the matters referred to above the Commissioner hereby gives notice that in exercise of his powers under section 50 of the Act he requires that Tandridge District Council shall, within 30 days of the date of this Decision Notice, respond in accordance with section 1 of the Act addressing all points of the complainant's information request.

Failure to comply

Failure to comply with the steps described above may result in the Commissioner making written certification of this fact to the High Court (or the Court of Session in Scotland) pursuant to section 54 of the Act, and may be dealt with as a contempt of court.

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 13th day of February 2006

Signed:

Graham Smith
Deputy Commissioner

Information Commissioner
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF