

## Freedom of Information Act 2000 (Section 50)

### Decision Notice

Date 10 January 2007

**Public Authority:** Shotteswell Parish Council

### Summary

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The complainant requested information relating to the public authority's activities with regard to a playing field. The public authority replied but neither provided the specified information nor issued a refusal notice in accordance with section 17 of the Act. Despite attempts by the Commissioner to resolve the case informally the public authority still failed to provide a proper response to the request. The public authority is now required to disclose the outstanding information, or else issue a refusal notice in accordance with section 17 of the Act, within 35 days of the date of this notice.

### The Commissioner's Role

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1. The Commissioner's duty is to decide whether a request for information made to a public authority has been dealt with in accordance with the requirements of Part 1 of the Freedom of Information Act 2000 ('the Act'). This Notice sets out his decision.

### The Request

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2. On 20 December 2005 the complainant requested, from the public authority, a number of items of information relating to equipment and work relating to a playing field for which the public authority were responsible. For reasons of brevity the request is not reproduced in its entirety here but can be viewed in the attached annexe.
3. On 22 December 2005 the public authority responded but neither provided all the requested information nor issued a refusal notice under the terms of section 17. Instead, this response made some general remarks about the issues to which the request referred.

4. On 5 January 2006 the complainant wrote to the public authority and requested a response to his request.

## The Investigation

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### Scope of the case

4. On 16 February 2006 the complainant contacted the Commissioner to complain about the way his request for information had been handled. The complainant specifically asked the Commissioner to consider the following points:
  - That the public authority had failed to respond to the request.
5. The complainant also raised other issues that are not addressed in this Notice because they are not requirements of Part 1 of the Act.

### Chronology

6. **23 June 2006** The complaint was allocated, for investigation, to a member of the Commissioner's staff who wrote to the complainant to enquire whether the public authority had responded to his request subsequent to him submitting his complaint to the Commissioner.
7. **29 June 2006** The public authority was contacted and asked to provide their responses to the complainant's request. The public authority raised other matters relating to the complainant's attendance at meetings of the public authority that were not relevant to the Commissioner's investigation.
8. **30 June 2006** The public authority wrote to the Commissioner, providing a response which appeared to address most of the elements of the complainant's request.
9. **5 July 2006** The complainant responded and confirmed that the public authority had not provided a response to his request.
10. **2 August 2006** The Commissioner was in contact with the public authority who confirmed that the information contained in their letter to the Commissioner of 30 June 2006 had been communicated to the complainant.
11. **2 August 2006** The Commissioner wrote to the complainant and asked him to confirm that he had received the response from the public authority, the content of which had been sent to the Commissioner in a letter dated 30 June 2006.
12. **28 August 2006** The complainant responded and made a number of points about the context within which the information request was made. These were not relevant to the Commissioner's investigation and the complainant did not confirm

- whether he had received the specific information requested from the public authority.
13. **30 August 2006** The Commissioner wrote to the complainant and asked him to confirm whether the public authority had now responded to his request.
  14. **11 October 2006** The complainant responded and, in a forwarded letter dated 11 September 2006, confirmed that the public authority had not responded to his request.
  15. **11 October 2006** The Commissioner wrote to the public authority and asked them to provide a copy of the version of the response to the request which they had previously confirmed had been sent to the complainant. Additionally, the Commissioner asked the public authority to provide a response to the element of the complainant's request which asked for the public authority's "risk assessment on health and safety".
  16. **13 October 2006** The Commissioner wrote to the public authority and confirmed the steps required in order to comply with their duties, namely, to forward the response previously provided to the Commissioner to the complainant and, in doing so, also address element (d) of the request (see request in attached annexe).
  17. **6 November 2006** The Commissioner wrote to the public authority issuing a deadline of ten working days for completion of the task identified in 16 above. The Commissioner confirmed that if the public authority declined to follow this course of action a Decision Notice would be issued.
  18. **21 November 2006** The Commissioner wrote to the public authority and confirmed that a Decision Notice was being drafted and would be issued. It was explained that the administrative time involved in issuing notices meant that, if the public authority wished to reconsider their position and respond to the request in the manner identified by the Commissioner, this might negate the need for the notice to be issued. A timescale of ten days was given for them to perform this activity.

### Findings of fact

19. The complainant has stated that he has not received the information requested. The public authority has not provided evidence which shows that it has responded to the request.

## The Decision

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26. The Commissioner's decision is that the public authority did not deal with the request for information in accordance with the Act.
- The public authority has not fulfilled its duty as detailed in section 1 of the Act.

## Steps Required

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10. The Commissioner requires the public authority to take the following steps to ensure compliance with the Act:

The public authority must supply the information requested to the complainant or issue a refusal notice in accordance with section 17 of the Act.

11. The public authority must take the steps required by this notice within 35 calendar days of the date of this notice.

## Other matters

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11. Although they do not form part of this Decision Notice the Commissioner wishes to highlight the following matters of concern:

The Commissioner allowed the public authority several opportunities to informally resolve the complaint and spent some time providing advice as to how this might be achieved. This advice was not taken. Additionally, the Commissioner is dismayed that the public authority caused his investigation to be unnecessarily prolonged by giving inaccurate responses to his questions.

## Failure to comply

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12. 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

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13. Either party has the right to appeal against this Decision Notice to the Information 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](mailto:informationtribunal@dca.gsi.gov.uk)

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

**Dated the 10<sup>th</sup> day of January 2007**

**Signed .....**

**Richard Thomas  
Information Commissioner**

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

## Annex

Verbatim reproduction of Complainant's request of 20 December 2005:

"a) The name of the District Councils Agent and his/her position within the District Council, with whom the PC have had dealings, visiting the site to give clearance for the work.

I have discussed (telephone with those, I understand, who are responsible within the District Council, for such works. The DC appear to be unaware of any such proposal/development in Shotteswell.

b) The names of the other two tenderers including a copy of the letter of invitation to tender, together with a copy of the specification on which the tenders would be submitted. (The Parish Council at a meeting earlier in the year acknowledged that there was no specification for the field). This is important as the PC Clerk stated that Wicksteed the successful Tenderer, are the preferred contactor of the District Council.

The reasons:-

- i) The other tenderers should be informed of the District Councils preference, especially as tenders are won on a competitive basis.
- ii) That if anything was to go wrong, the PC might have reason to go to the District Council stating that it was their recommendation to use Wicksteed.

c) Who evaluated the Tenders and made the recommendation of acceptance and what is their qualification or experience on such matters.

d) The Risk Assessment on Health and Safety.

e) The breakdown of cost and how these cost have been analysed

e.g. I) Grant and its inclusions.

II) The name of the provider of the grant.

III) Maintenance costs for both equipment and cutting the field, fencing, NOT GUARANTEE.

IV) The Tender price from Messrs Wicksteed and what it includes.

V) Full Details of Insurance cover. The increase in premium and what will be the value and whether there is any excess payable by the Parish should there be a claim.

f) Details of the contract with Brasenose College whether it is short terms lease (yearly only) or a prolonged period for a particular sum or merely a peppercorn rent. Also any proviso matters under the terms of the agreement and how it has been conveyed to the village as a whole.

As the work has now started could you also provide a copy of the contractors Method Statement and who will judge to see that compliance in accordance with the Method Statement.

How were the three areas set out taking into consideration the direct alignment of the existing Public Footpath."

## **Legal Annex**

### **Freedom of Information Act (2000)**

#### **Section 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.”