

FREEDOM OF INFORMATION ACT 2000 (SECTION 50)

DECISION NOTICE

Dated: 4th July 2005

Name of Public Authority: Skipton Town Council
Address of Public Authority: 2nd Floor, Barclays Bank Chambers
49 High Street
Skipton
BD23 1DT

Nature of Complaint

The Information Commissioner (the "Commissioner") has received a complaint which states that the following information was requested under section 1 of the Freedom of Information Act 2000 (the "Act") from Skipton Town Council ("the Council").

The information requested related to a dispute with the public authority regarding an allotment site. In particular, the complainant had requested information relating to Council meetings at which the matter was discussed.

The complainant alleged that, despite having raised his concerns with a number of officers of the Council, no response was received.

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a local complaints procedure, or where the complaint is frivolous or vexatious, subject to undue delay, or has been withdrawn, the Commissioner is under a duty to consider whether the request for information has been dealt with in accordance with the requirements of Part I of the Act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:

1. It is clear from the correspondence supplied by the complainant and from the response of the public authority, that the complainant made written requests for the information to a number of officers of the Council and its elected members on different occasions. Although the dates of the different requests are not entirely clear, the Commissioner is satisfied that valid requests for information were submitted to the Council in January and February 2005.

2. Although the complainant alleges that no response to his request was received, the contrary is asserted by the Council which has stated that the complainant "has been given the information he requested in his multiple

enquiries, with the exception of ... the names and addresses of the petitioners... (and) ... the notes of a meeting with an allotment tenant where the matter was discussed and the person interviewed requested that the information provided be kept confidential.”

In addition to this statement, the Commissioner was provided with a copy of the refusal notice issued to the complainant on 31 January 2005 which stated that a request under section 1 of the Act had been refused by virtue of section 40 of the Act. Among other things, section 40 provides an exemption from the duty to provide information requested, if to comply with the request would be to contravene one or more of the data protection principles. The refusal notice stated that a contravention would occur if the names and addresses of those who had complained to the Council were disclosed to the complainant.

The Commissioner is satisfied, contrary to the allegation made by the complainant, that a response was given to the complainant’s request.

3. The Commissioner has also considered the question of whether the information requested could properly have been withheld in reliance on the exemption provided by section 40 of the Act. The Commissioner is satisfied that the names and addresses of those who have complained to the public authority can be properly withheld. Although the complainant has a legitimate interest in receiving this information, the Commissioner considers that there is a stronger public interest in the protection of the privacy of those individuals and, in particular, in maintaining the presumption that the identities of complainants should be kept confidential.

In effect disclosure would be prevented by the Data Protection Act 1998 which requires that personal data be processed fairly and lawfully. Schedule 2 of that Act sets out conditions, one of which must be satisfied, when processing personal data. Processing includes the disclosure of personal data and paragraph 6 of the Schedule provides, among other matters, that data will be processed lawfully if it is in the legitimate interests of a third party to whom the data are disclosed, “except where the processing is unwarranted in any particular case by reason of prejudice to the rights and freedoms or legitimate interests of the data subject.”

In conclusion, the Commissioner’s decision in this case is that the Council has dealt with the complainant’s request in accordance with the requirements of Part 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 the public authority.

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 277
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 4th day of July 2005

Signed:

Graham Smith
Deputy Commissioner

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