

FREEDOM OF INFORMATION ACT 2000 (SECTION 50)

DECISION NOTICE

Dated 17 November 2005

Name of Public Authority: Bretforton Parish Council

**Address of Public Authority: 47 Weston Road
Bretforton
Evesham
Worcs.
WR11 7HW**

Nature of Complaint

The Information Commissioner (the "Commissioner") has received a complaint which states that on 11th January 2005 the following information was requested from Bretforton Parish Council (the "Council") under section 1 of the Freedom of Information Act 2000 (the "Act"):

- "All minutes of the Parish Council Meetings from November 30 2003 to the date of this request."
- "All minutes of the Parish Council Burial Authority Meetings from November 30 2003 to the date of this request."
- "Parish Council statement read out on January 5 2004, to which a reply has not been received to date."
- "Procedure that the Acting Clerk followed on 1 December 2003 to which both the Acting Clerk and the Chairman referred, at meetings on 8 December 2003 and 5 January 2004 witnessed by family members."
- "All documentation held by the Parish Council and its Burial Authority in relation to the events of the 1 December 2003 reference Plots 54 & 55 and Plots 325/326 at Bretforton Cemetery."
- "Procedures governing Open Forum."

It is alleged that:

- (1) The Council did not confirm or deny whether it held the information specified in the request within twenty working days.
- (2) If that is the case the complainant did not have that information communicated to him by the Council within twenty working days.

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a local complaints procedure, or where the complaint is frivolous or vexatious, subject to undue delay, or has been withdrawn, the Commissioner is under a duty to consider whether the request for information has been dealt with in accordance with the requirements of Part I of the Act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

Following receipt of the request, the Council wrote to the complainant by letter dated 17th January 2005 and advised them that the request had been forwarded to their legal advisers. Having received no further correspondence from the Council regarding their request, the complainant wrote a further letter to the Council dated 15th February 2005. The Council responded by letter dated 17th February 2005 which referred the complainant to the Council's earlier letter dated 17th January 2005. The complainant contacted the Commissioner's Office by letter dated 20th May 2005 and confirmed that they had not received a proper response to their request. Following the intervention of the Commissioner's Office, the Council sent a response to the complainant by letter dated 28th September 2005 enclosing the information requested.

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) 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."

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 on 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 these matters the Commissioner hereby gives notice that he does not require any remedial steps to be taken by Bretforton Parish Council.

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 17th day of November 2005

Signed:

Graham Smith
Deputy Commissioner

Information Commissioner
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF