



FREEDOM OF INFORMATION ACT 2000 (SECTION 50)

DECISION NOTICE

Dated 4 April 2006

Name of Public Authority: Bristol City Council

**Address of Public Authority: The Council House
College Green
Bristol
Avon
BS1 5TR**

Nature of Complaint

The Information Commissioner (the "Commissioner") has received a complaint which states that the following information was requested on 22 February 2005 and 23 March 2005, respectively, from Bristol City Council (the "Council") under section 1 of the Freedom of Information Act 2000 (the "Act"):

"...details relating to when the two street trees removed from Gloucester Road...were first planted [and] any further information suggesting care and upkeep",

and

"...details of claims made against Bristol City Council and insurers, on matters concerning street tree nuisance to properties...[on]...Gloucester Road..."

It is alleged that Bristol City Council did not respond to the complainant's requests within 20 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a local complaints procedure, or where the complaint is frivolous or vexatious, subject to undue delay, or has been withdrawn, the Commissioner is under a duty to consider whether the request for information has been dealt with in accordance with the requirements of Part I of the Act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 in this case is as follows:

The complainant made the requests, by two letters, the first letter dated 22 February 2005 and the second letter dated 23 March 2005.

In the eventual responses, the Council elected to determine the requests under the Freedom of Information Act. In relation to the first request, dated 22 February, the Commissioner has formed the opinion that it may have been appropriate to consider the request under the Environmental Information Regulations 2004 (the "EIR's"). However, as the information requested has now been provided, the question as to whether the EIR's should have been applied is academic and need not be considered further.

The second request, dated 23 March 2005, was couched in terms of a request for disclosure under the Civil Procedure Rules. In the response of 5 April 2005 the request was answered and declined in those terms, comment upon which is beyond the Commissioner's jurisdiction. However, it would have been appropriate to also consider the request under the provisions of the Act, as a request does not have to reference the Act in order to be valid.

The Council did subsequently consider the request under the Act, after the Commissioner's intervention, and supplied some information in this regard, which (as the complainant commented) was not particularly full or forthcoming. However, the complainant did not wish to pursue the issue of content.

The Council did not respond substantively to the requests until 5 April 2005 and 23 November 2005, respectively. When the Council responded, it supplied the information that had been requested. Consequently, the Council did not deal with the complainant's request in accordance with the requirements of Part I of the Act in that it has failed to comply with section 10(1).

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."

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 Bristol City 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 4th day of April 2006

Signed:

Phil Boyd
Assistant Commissioner

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