



Freedom of Information Act 2000 (Section 50)

Decision Notice

Dated 23 March 2006

Public Authority: Milton Keynes Council

Address: Civic Offices
1 Saxon Gate East
Milton Keynes
MK9 3EJ

Summary Decision and Action Required

The Commissioner's decision in this matter is that the Public Authority has not dealt with the Complainant's request in accordance with Part I of the Act in that it has failed to comply with its obligations under section 10.

The information has now been provided. Consequently, the Commissioner states that no remedial action will be required by the Public Authority.

1. Freedom of Information Act 2000 (the 'Act') – Applications for a Decision and the Duty of the Commissioner

1.1 The Information Commissioner (the 'Commissioner') has received an application for a decision whether, in any specified respect, the Complainant's request for information made to the Public Authority has been dealt with in accordance with the requirements of Part I of the Freedom of Information Act 2000 (the 'Act').

1.2 Where a complainant has made an application for a decision, unless:

- a complainant has failed to exhaust a local complaints procedure, or
- the application is frivolous or vexatious, or
- the application has been subject to undue delay, or
- the application has been withdrawn or abandoned,

the Commissioner is under a duty to make a decision.

1.3 The Commissioner shall either notify the complainant that he has not made a decision (and his grounds for not doing so) or shall serve a notice of his decision on both the complainant and the public authority.

2. The Complaint

2.1 The Complainant has advised the Commissioner that, on the 20th April 2005, the following information was requested by letter from the Public Authority in accordance with section 1 of the Act:

2.2 "...full information relating to the gross income received from the Permitted and Special Parking Areas in Milton Keynes required by section 55 of the RTRA 1984, for the financial years 2003-2004 and 2004-2005..."

"...full details of the expenditure of the gross income received, including any costs associated with the collection of the income, charges due to the general fund for which provision could be made under the RTRA 1984 and the distribution of surplus income, which should be accounted for in Section 55 under the following abbreviated headings:-

- 1) Meeting the costs of provision and maintenance of off street parking provided by MKC. Other authority or other persons.
- 2) If the provision of additional off street parking is unnecessary or undesirable then to use the surplus for the following purpose.

"(i)... in the provision or operation of, or facilities for, public passenger transport services and:-

"(ii) purposes of a project connected with the carrying out ... 'of any operation, which in the meaning of the Highways Act 1980, constitutes the improvement of a highway in the local authority's area' ..."

"...the information...under headings 1) and 2) should clearly identify the exact detail of the expenditure on individual outcomes and what these activities or projects were rather than just lump sums covering a general area of expenditure with vague headings."

The Public Authority acknowledged the request for information on the 22 April 2005. However, they did not respond to the request until 26 May 2005, following a complaint made by the complainant.

On the 2 June 2005, the complainant wrote to the Public Authority because he felt he had not received the level of detail, within the information that he received, and reiterated his request to them. By a letter, dated 24 June 2005, the Public Authority confirmed that they would provide more information to the complainant. This information was provided on the 24 September 2005.

3. Relevant Statutory Obligations under the Act

3.1 Section 10(1) provides that –

“...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”.

4. Review of the case

The complainant asked the Commissioner to review the failure of the Public Authority to provide all of the information requested within the statutory time frame. At the time of requesting the Commissioner's intervention, the complainant had not received all of the information initially requested. However, at the time that the complaint was allocated for investigation, the complainant had obtained the required information via his own efforts. Consequently, the complainant requested that the Commissioner review the timing of the response in this investigation.

The Public Authority were of the opinion that they had provided all the information requested in their response of the 26th May 2005, and that the complainant's letter of the 2nd June 2005 constituted a further new request for information. Having considered the content of the complainant's letter, in particular that he had included extracts of his original request; the Commissioner is of the opinion that the complainant's letter of the 2nd June 2005 merely reiterated the original request. The Public Authority should therefore have supplied all of the information eventually provided within 20 working days of the 20th April 2005.

Within the second letter the complainant was requesting more detail than had been provided with the Public Authority's original response although the amount of detail required should have been apparent to the Public Authority from the original request letter.

5. The Commissioner's Decision

5.1 The Commissioner's decision in this matter is that the Public Authority did not deal with the complainant's request in accordance with the following requirements of Part I of the Act:

Section 10(1) - in that it exceeded the statutory time limit for responding to a request made under section 1(1).

6. Right of Appeal

6.1 Either party has the right to appeal against this Decision Notice to the Information Tribunal (the "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

6.2 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 23rd day of March 2006

Signed

**Phil Boyd
Assistant Commissioner**

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