

FREEDOM OF INFORMATION ACT 2000 (SECTION 50)

DECISION NOTICE

Dated **2005**

Name of Public Authority: Rushden Town Council

Address of Public Authority: Rushden Hall
Rushden
Northamptonshire
NN10 9NJ

Nature of Complaint

The Information Commissioner (the "Commissioner") has received a complaint alleging that on 11th January 2005 the complainant requested from Rushden Town Council the following information under the Freedom of Information Act 2000 (the "Act"):

- "Can the Town Council confirm approximately how many member of the public attended Rushden Town Council Reception between 29th December and 7th January 2005?"
- "Why was there no notice placed within East Ward to advertise the forthcoming By Election?"
- "Can the Town Council advise why they decided against issuing a press release to advertise the forthcoming by election?"
- "Has the Town Council requested polling cards of the District Council for the East Ward By Election?"
- "How do the Town Council intend advising the electorate of Rushden of the By Election?"

The above request was handed to the Leader of Rushden Town Council, Councillor Stephen North, at a full Council meeting held on 11th January 2005.

It is alleged that Rushden Town Council have failed to provide the complainant with the information that she has requested.

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a local complaints procedure, or where the complaint is frivolous or vexatious, subject to undue delay, or has been withdrawn, the Commissioner has a duty to consider whether the request for information has been dealt with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.

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.”

By virtue of section 17 of the Act, where a public authority is to any extent relying on a claim that any of the exemptions in Part II apply to the request it 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,
- (c) states (if that would not otherwise be apparent) why the exemption applies.
- (d) contain particulars of any procedures provided by the public authority for dealing with complaints about the handling of requests for information or state that the authority does not provide such a procedure, and
- (e) contains particulars of the right conferred by section 50 to apply to the Commissioner for a decision as to whether a request for information has been dealt with in accordance with the requirements of Part I of the Act.

The Commissioner’s decision in this case is that Rushden Town Council has not dealt with the complainant’s request in accordance with the requirements of Part I of the Act in that it has failed to either comply with section 1(1) or section 17 within the time limit set out in section 10(1).

Action Required

In view of the matters referred to above the Commissioner hereby gives notice that in exercise of his powers under section 50 of the Act he requires that Rushden Town Council shall, within 30 days of the date of this Decision Notice –

- (a) inform the complainant whether it holds information of the description specified by her in the request and, if it does, provide that information to her, or

(b) provide the complainant with a refusal notice in accordance with section 17 of the Act.

Failure to comply

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

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 day of 2005

Signed:

Graham Smith
Deputy Commissioner

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