

FREEDOM OF INFORMATION ACT 2000 (SECTION 50)

DECISION NOTICE

Dated 3rd March 2006

Name of Public Authority: Astley Abbots Parish Council
Address of Public Authority: Cherry Oaks Farm
Lower Monkhall
Monkhoppton
Bridgnorth
Shropshire
WV16 6XF

Nature of Complaint

The Information Commissioner (the "Commissioner") has received a complaint from the above person (the "complainant") which states that on 6th May 2005 the following information was requested from Astley Abbots Parish Council under section 1 of the Freedom of Information Act 2000 (the "Act"):

- "1. Does the Parish Council have its own Code of Conduct or does the Model Code approved by Parliament apply? In the case of the former, I request a copy. I have a copy of the model code.
2. Which person or authority called the September 23rd 2004 meeting? The circular letter received by some parishioners, dated September 20th 2004, states 'the Parish Council have organised a Parish Meeting' however you, in your letter to me dated December 17th 2004, state ' the Parish Council did not arrange the meeting.'
3. Was the meeting referred to intended to be a public meeting open to any interested person or a Parish meeting restricted to Parish residents?
4. If it was a public meeting:
 - (a) why were you present in your Parish capacity and advising on Parish procedures and advising on 'how to object' (to a planning application)?
 - (b) why were apologies from Parish Councillors read out?
 - (c) why did the September 20th circular say it was a Parish meeting?
 - (d) what procedures was used to determine by whom the meeting was chaired?
5. If it was a Parish meeting:
 - (a) why were any non Parish residents present?
 - (b) why were those people allowed to be present throughout, to speak and to seek to influence proceedings?
 - (c) why was the meeting needed in the light of the decision taken by the Parish Council 9 days earlier at one of the regular meetings?"

6. Were all Parish Councillors consulted about having a meeting and, if so, did they think it was to be Parish or public?
7. How many parishioners were sent letters advising them of the meeting?
8. From what source did funds come to pay the cost of stationery, first class postage and other costs associated with the September 20th circular letter?
9. Was the Parish Council involved in the preparation and delivery of paperwork to do with the September 23rd meeting which was received at the homes of some non parish residents?
10. From what source did funds come to pay the costs incurred in holding the Village Hall meeting of September 23rd 2004 and the meeting held on January 6th 2005 which was held by Mr Bacon and at which the Parish Council Chairman acted as Secretary?
11. Which Parish Councillors consider themselves members of Mr Bacon's group which he claims to have formed?"

It is alleged that:

1. The information request was not responded to in full within 20 working days; and,
2. The Council stated falsely that no recorded information is held in response to questions 2 – 11 of the request.

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. The information request was dated 6th May 2005. The Council responded, initially, on 13th May 2005, but this response addressed only question 1 of the information request. Whilst the Commissioner accepts that questions 2 – 11 do not appear to be requests for copies of recorded information, the response should have stated that no information was held in connection to those questions. Following the intervention of the Information Commissioner the

Council responded to all points of the information request by letter dated 5th December 2005, outside 20 working days.

The Commissioner is satisfied that the Council have failed to comply with the requirements of Part I of the Act in that they have breached 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.”

2. The Council, in their response of 5th December 2005, stated that they do not hold recorded information in response to questions 2 – 11 of the above information request. The complainant disputes this. The Council has stated that the meeting, about which information was requested, was not organised by the Council and consequently they do not hold information relating to this meeting. There is no evidence available to the Commissioner that suggests that it is likely that information has been withheld from the response to the information request.

The Commissioner is satisfied that the Council have complied with the requirements of Part I of the Act in that they have dealt with this information request in accordance with section 1(1).

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.”

Action Required

Whilst this Decision Notice does conclude that the Council failed to comply with the requirements of section 10 of the Act, no further action is required in connection with this as the Council have now complied with the request in full.

The Commissioner hereby gives notice that he does not require any remedial steps to be taken by Astley Abbots 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:

Reference: FS50082264

Information Tribunal
Arnhem House Support Centre
PO Box 6987
Leicester
LE1 6ZX

Tel: 0845 6000 877
Fax: 0116 249 4253
Email: informationtribunal@dca.gsi.gov.uk

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 3rd day of March 2006

Signed:

Graham Smith
Deputy Commissioner

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