

FREEDOM OF INFORMATION ACT 2000 (SECTION 50)

DECISION NOTICE

Dated 28th November 2005

Name of Public Authority: East Riding of Yorkshire Council

Address of Public Authority: County Hall
Beverley
East Riding of Yorkshire
HU17 9BA

Nature of Complaint

The Information Commissioner (the "Commissioner") has received a complaint which states that on March 9th 2005, April 5th 2005 and April 17th 2005 (3 separate information requests), a series of questions were asked of East Riding of Yorkshire Council under section 1 of the Freedom of Information Act 2000 (the "Act"), concerning the Hornsea Rail Trail.

The information request of March 9th 2005 asked for:

- “1. a copy of the Trans Pennine Trail’s letter requesting the upgrading of this and any other Right of Way in the East Riding of Yorkshire,
2. any correspondence between ERYC and TPT which concerns this type of surface,
3. a copy of the environmentalist’s report,
4. copies of any letters complaining about the surface dated before 1st January 2005 and
5. the answer to question 1 of my letter dated 2nd February, i.e. *I would like to know who authorised it.*”

(Question 5 above is excluded from the provisions of this Decision Notice in view of the fact that a response, to the satisfaction of the Complainant, was received to it by letter dated April 4th 2005, in accordance with the requirements of section 10(1) of the Act).

The information request of April 5th 2005 asked for:

“Which committee/cabinet meeting authorised the resurfacing/repair/upgrading of the Hornsea Rail Trail?”

The information request of April 17th 2005 repeated questions 1-4 inclusive of the March 9th 2005 request, which remained unanswered at that time, and in addition, asked for the following information :

“a copy of the specifications to the contractor and details of any contractual penalty clauses which it contained for the resurfacing of the Hornsea Rail Trail.”

It is alleged that:

East Riding of Yorkshire Council failed, on each occasion, to provide the requested information for each of the 3 separate 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a local complaints procedure, or where the complaint is frivolous or vexatious, subject to undue delay, or has been withdrawn, the Commissioner is under a duty to consider whether the request for information has been dealt with in accordance with the requirements of Part I of the Act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.

In reaching a decision on this complaint, the Commissioner has had regard to the following facts:

1. The information request of March 9th 2005 related to five questions, of which only one (question 5 as above) received a response within the 20 working day period specified in section 10(1) of the Act. A full written response, to the satisfaction of the Complainant, was made to questions 1-4 inclusive by letter dated June 29th 2005.
2. The second information request, dated April 5th 2005, was responded to by letter dated May 23rd 2005, to the satisfaction of the Complainant.
3. The information request of April 17th 2005 (which included the four questions remaining unanswered at that time from request number 1 above), was responded to in three stages, by letters dated May 27th, June 29th and July 1st 2005, to the satisfaction of the Complainant.

The Commissioner’s decision upholds the complaint and is as follows:

In failing to provide full written responses to the Complainant’s three individual information requests (apart from question 5 of the March 9th 2005 request) within 20 working days on each occasion, East Riding of Yorkshire Council has not complied with section 10(1) of the Act.

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

The Commissioner recognises that East Riding of Yorkshire Council has now responded in writing to the complainant's three requests and that the responses provide the information requested, to the satisfaction of the complainant.

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 East Riding of Yorkshire 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 28th day of November 2005

Signed:

Richard Thomas
Information Commissioner

Information Commissioner
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF