

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 22 May 2012

**Public Authority:** Walberswick Parish Council

**Address:** Seaspray  
Millfield Road  
Walberswick  
Southwold  
Suffolk  
IP18 6UD

### Decision (including any steps ordered)

---

1. The complainant has requested information related to how specific Councillors responded to an email from the Parish Clerk. Despite the intervention of the Commissioner, Walberswick Parish Council has not provided a response to the request in accordance with the Freedom of Information Act. The Commissioner therefore reminds Walberswick Parish Council of its obligations under the Freedom of Information Act and requires that it either respond to the request in accordance with the legislation or issue a valid refusal notice under section 17(1).
2. The public authority must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Act and may be dealt with as a contempt of court.

### Request and response

---

3. On 3 July 2011, the complainant wrote to Walberswick Parish Council ('the council') and requested information in the following terms:  
  
"I also now request that you provide information held by WPC regarding your own responses to the WPC Clerks extraordinary and unacceptable email of 27 May addressed to you both, and also for some reason sent to me.

4. The complainant requested this information again on 27 August 2011 as follows:

"I now formally request information (I wrote to [named Councillor] and [named Councillor] about this on 3 July 2011, 40 days have elapsed but I have again received no reply.) related to the responses of [named Councillor] and [named Councillor] to [named Clerk's] email, any correspondence with SALC and other information held by WPC related to this matter.

### **Scope of the case**

---

5. The complainant contacted the Commissioner to complain about the way his request for information had been handled.
6. The Commissioner identified that some of the information requested could be the complainant's own personal data and as such should be dealt with as a subject access request under the Data Protection Act 1998. The complainant's personal data is therefore outside the scope of this decision notice.

### **Reasons for decision**

---

7. Section 10(1) of the FOIA states that a public authority in receipt of a request for information has a duty to respond within 20 working days.
8. On 8 December 2011, the Commissioner requested that the council issue a response to the complainant within 20 working days. He explained that the council should either provide the information or issue a refusal notice in accordance with the requirements of section 17 of the FOIA and provided links to publically available guidance on refusal notices.
9. Following a telephone conversation with the council on the same day, the Commissioner sent the council procedural advice relating to dealing with requests under the FOIA.
10. On 9 January 2012, the Commissioner wrote to the council. He explained that whilst the information referred to in the complainants emails of 3 July 2011 and 27 August 2011 to the council may have been substantially similar to that in earlier requests, where a person makes a request for information that has previously been requested by the same person, a public authority is still under a duty to respond, even to a repeat request. He further explained that if the council believed that the

information had been supplied in response to earlier requests, the appropriate course of action would either have been to respond fully to the new requests, either by supplying the information again or, if the council felt it appropriate in the circumstances, issuing a refusal citing Section 14 (2) of FOIA. He clarified that it would only be appropriate to use Section 14 if the council was satisfied that the previous request(s) had been responded to properly, and that the subsequent request(s) were for the same or substantially similar information.

11. To date, the council has not provided a response to the complainant.
12. It is clear to the Commissioner that, in this case, the council has failed to respond to the request in the time limit set within the FOIA.

## Right of appeal

---

13. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)  
GRC & GRP Tribunals,  
PO Box 9300,  
LEICESTER,  
LE1 8DJ

Tel: 0300 1234504

Fax: 0116 249 4253

Email: [informationtribunal@hmcts.gsi.gov.uk](mailto:informationtribunal@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm](http://www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm)

14. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
15. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

**Signed .....**

**Andrew White**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**