

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 11 December 2013

Public Authority: Goring Parish Council
Address: Old Jubilee Fire Station
Red Cross Road
Goring
Reading
RG8 9HG

Decision (including any steps ordered)

1. The complainant requested confidential minutes from Goring Parish Council ("the council"). The council provided information in response to this. The complainant asked the Commissioner to investigate whether further information was held, and if the council had handled his request correctly.
2. The Commissioner's decision is that, on the balance of probabilities, no further information is held. However, the council breached section 10(1) of the FOIA by failing to provide the requested information within 20 working days.
3. The Commissioner does not require any steps to be taken.

Request and response

4. On 5 July 2012, the complainant wrote to the council and requested the following information (which relates to the council's internal review of a previous information request that he had submitted):

"The Council will oblige me by providing copies of the confidential minutes for each occasion the matter was considered in confidential session, with any other associated material considered at the time."

5. The council contacted the complainant on 5 July 2012. It confirmed that it held relevant information, but stated that this was confidential and could not be disclosed.
6. The complainant requested an internal review on 24 October 2012. This was provided by the council on 13 November 2012. The council revised its position and disclosed the held information.

Scope of the case

7. The complainant contacted the Commissioner on 31 January 2013 to complain about the way his request for information had been handled.
8. The Commissioner considers that the scope of this case is the determination of whether the council fulfilled its obligations under section 1(1) of the FOIA by providing all held information in response to the request. Additionally, the Commissioner will consider whether this was done within the time for compliance allowed by section 10(1).

Reasons for decision

Section 1(1) – Duty to make information available on request

9. Section 1(1) of the FOIA states that any person making a request for information is entitled to be informed by the public authority whether it holds the information, and if so, to have that information communicated to him/her. This is subject to any exemptions or exclusions that may apply.
10. On 16 September 2013, the Commissioner wrote to the council to request details about the way in which relevant records were held and searched in response to the request. The council subsequently provided these details. Additionally, the Commissioner already holds information about the council's management of its minutes for a related case, which resulted in Decision Notice FS50491844. This information has accordingly been referred to in this case.
11. The council has explained that all minutes are stored in both hardcopy and electronic format, and that there is a legal responsibility on the

council to retain all minutes, as per the following guidance from South Oxfordshire District Council:

"Once the parish council has agreed by resolution that the minutes are correct they stand as a record of the official acts and decisions of the meeting to which they relate."

Consequently, the council has confirmed that no relevant information has been destroyed or lost.

12. The council has confirmed to the Commissioner that it has undertaken a manual search through the minutes, and that it would not expect there to be any further relevant information held in relation to the complainant's request beyond that which has already been provided.
13. In the circumstances of this complaint, the Commissioner must decide on the balance of probabilities whether any further information is likely to be held by the council in relation to the complainant's request. The factors that have been considered in coming to a conclusion have included the apparent simplicity of the required search, and the centralised manner in which minutes are held. Balanced against these points, there have been no clear arguments presented by the complainant to suggest that further information may be held beyond that which he has already been provided with, and which he himself has provided copies of to the Commissioner. Having considered these factors, the Commissioner has come to the conclusion, based on the balance of probabilities, that it is unlikely the council holds further information within the scope of the complainant's request.

Section 10(1) Time for compliance

1. Section 10(1) of the FOIA requires that a public authority should comply with the requirements of section 1(1) promptly, and in any event, within 20 working days.
2. In this case the Commissioner has identified that the council failed to disclose held information in response to the complainant's request within 20 working days of receipt, and therefore breached the requirement of section 10(1). The council should ensure that there is no repetition of this breach in relation to future requests.

Other matters

3. The Commissioner has identified that the council's initial refusal notice did not meet the requirements of section 17(1) of the FOIA, in that it did not cite an exemption. While this refusal notice was superseded by the

council's internal review outcome, the Commissioner would remind the council of the necessity to ensure that any future refusal notices are valid under the FOIA. The Commissioner would refer the council to his guidance on this point, which is available at:

http://www.ico.org.uk/for_organisations/guidance_index/~media/documents/library/Freedom_of_Information/Detailed_specialist_guides/refusing_a_request_writing_a_refusal_notice_foi.ashx

Right of appeal

4. If 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: GRC@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

5. 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.
6. 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
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