

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 26 March 2014

Public Authority: West Felton Parish Council
Address: Parish Office
Forton Bank
Montford Bridge
Shrewsbury
SY4 1ER

Decision (including any steps ordered)

1. The complainant has requested information relating to an agenda for a council meeting on 27 June 2013 together with background documents to the meeting. He also requested copies of the declaration of acceptance of office made by the chairman and members of the council. During the course of the Commissioner's investigation the council disclosed all of the information to the complainant.
2. The Commissioner's decision is that West Felton Parish Council has breached section 10(1) of the Act in that it did not disclose the information to the complainant within 20 working days of receipt of the request.
3. The Commissioner does not require the council to take any steps.

Request and response

4. On 20 June 2013, the complainant wrote to the council and requested information in the following terms:

"Further to my unanswered messages set out below, I have observed that the agenda for the Parish Council meeting to be held on 27th June has now been 'published' on its notice board and, therefore, copies

thereof are publicly available by law. However, I have not received my copy of that or that document or the others referred to in my messages immediately below, as required. Therefore, please ensure that copies of those defined 'publications', including any other reports which may be identified in the agenda (e.g. the Internal Auditor's report etc., item 6.2), are sent to me, by e-mail, without delay, as required by the Parish Council's 'Publication Scheme' made in pursuance of Section 19 of the above Act."

On the same date he also made a request for:

"Please provide me with copies of Declarations of Acceptance of Office made by the Chairman and members of West Felton Parish Council in relation to their respective current periods of office, in accordance with the requirements of Section 83(4) of the Local Government Act 1972. Please also, upon their execution, provide me with copies thereof made by those co-opted to fill vacancies created by insufficient nominations and a resignation."

5. The council did not respond to the requests until during the Commissioner's investigation. It then disclosed the information to the complainant in parts on 24 February 2014 and 6 March 2014.

Scope of the case

6. The complainant contacted the Commissioner on 5 September 2013 to complain about the way his request for information had been handled.
7. The Commissioner considers that the complaint was that the council had not responded to him and the information had not been provided to him. He has also pointed out that the information which he requested fell within the scope of the council's publication scheme under section 19 of the Act, and should therefore have been available upon request to any person.
8. Following the disclosure of the information by the council the complainant confirmed that he wished the Commissioner to issue a decision notice finding that the council had breached section 10(1) in failing to provide its response within 20 working days from the date that the request was received.

Reasons for decision

9. Section 10(1) of FOIA states that "*Subject to subsections (2) and (3), 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."

10. Section 1(1) requires the authority to confirm whether it holds information falling within the scope of the request, and to disclose the information to the complainant (if it is not exempt).
11. The complainant made his request for information on 20 June 2013. The council did not however respond providing the information until 24 February 2014 and 4 March 2014.
12. The Commissioner has therefore decided that the council has breached section 10(1) of the Act.

Other matters

13. Although they do not form part of this decision notice the Commissioner wishes to highlight the following matters of concern.
14. Section 50(1) of the Act requires the Commissioner to make a decision in relation to complaints he receives about public authorities' compliance with the Act when dealing with requests for information. However, under section 50(2)(c) the Commissioner has the right to refuse to make a decision if it appears to him that a particular application is frivolous or vexatious.
15. The Commissioner is satisfied that the requested information is not frivolous insofar as it is information relating to council business and the agenda for a future (at that time) council meeting.
16. The Commissioner notes that the complainant's current requests for information were made shortly before the Commissioner accepted that other requests were vexatious under section 14 of the Act. A decision which was upheld by the Commissioner in decision notice FS50493150, issued on 9 September 2013. The complainant has appealed this decision to the First-tier Tribunal on the basis that the requests were all for information falling within the scope of the councils publication scheme. The appeal is ongoing at the time of writing of this decision notice. The decision notice outlines there reasons for the Commissioner's decision.
17. The Commissioner notes that the current requests form part of the pattern of behaviour which led to the council's decision to declare the requests vexatious. On each occasion that the council responded to requests the complainant wrote back to the council saying that its actions were unlawful or inadequate. The council has shown that this created a great deal of stress on the clerk to the council. It has also

shown that 2 parish clerks had previously resigned from their post, both directly referring to the complainant's behaviour as a factor in their decision to resign.

18. The complainant's correspondence with the council following the disclosure of the information on 24 February 2014 demonstrates that the complainant's behaviour remains the same in this respect. His response to the council was to criticise it and to point out inadequacies in the councils procedures. Again following the disclosure of 4 March 2014 he responded pointing out inadequacies in the councils procedures.
19. The Commissioner believes this represents a continued pattern of vexatious behaviour. In future the Commissioner will consider whether it is appropriate for him to exercise his discretion under section 50(2)(c) to refuse to make a decision in relation to any complaint about a request of a similar nature from the complainant.

Right of appeal

20. 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

21. 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.
22. 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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