

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 24 August 2018

Public Authority: Ashurst Parish Council
Address: 22 Elder Close
Portslade
Brighton
BN41 2ER

Decision (including any steps ordered)

1. The complainant requested from Ashurst Parish Council (the Council) information regarding documents in the SWAB Drop box facility. 'SWAB' is an acronym for Steyning, Wilston, Ashurst and Bramber parish councils, a cluster of four parish councils which worked together to produce the Neighbourhood Plan.
2. The Commissioner's decision is that the Council failed to respond to the request within the statutory time limit of 20 working days and has therefore breached section 10 (time for compliance) of the FOIA.
3. As the requested information has now been provided, the Commissioner does not require the Council to take any further steps.

Request and response

4. On 3 October 2017 the complainant wrote to the Council and requested information in the following terms:

"The February 2016 SWAB minutes say:-

'10.Dropbox – Documents required to assist with preparation of Pre-sub document. A Dropbox has been set up for all the documents for the Neighbourhood Plan.

It was agreed that all documents ready to be presented such as the Heritage, Conservation Area and Local Green Spaces should be sent Rebecca to be put into Dropbox.'

In the circumstances, this is a FOI/EIR request. Please send me by email in digital format copies of all the documents which were in the SWAB Dropbox facility as at 1st October 2016 plus any further or amended documents which were uploaded to that facility at any time since that date."

5. On 17 November 2017 the Council responded. The Council referred the complainant to correspondence sent by Steyning Parish Council on 8 November 2017 relating to the Dropbox facility. In this response, Steyning Parish Council stated that the information was exempt from disclosure under section 22 of the FOIA and regulation 12(4)(d) of the EIR. It also urged the complainant to present any questions regarding the Neighbourhood Plan, at the future meeting – 20 November 2017.
6. On 20 November 2017 the complainant asked for an internal review.
7. On 4 January 2018 the Council responded. The Council confirmed that it had nothing further to add to its initial email of 17 November 2017 and suggested that the complainant take this matter up directly with his fellow Councillors at Steyning Parish Council.

Scope of the case

8. The complainant first contacted the Commissioner on 6 January 2018 to complain about the way his request for information had been handled.
9. Further to the ICO's involvement, the Council released some information relating to the complainant's request. However, the complainant remained dissatisfied as the information was disclosed outside of the statutory timeframe and he subsequently requested a decision notice for this case.
10. The following analysis covers whether the Council breached section 10(1) (time for compliance) of the FOIA.

Reasons for decision

Section 10 – time for compliance

10. Section 1(1) of the FOIA provides that:

"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."

11. Section 10(1) of the FOIA states:

"Subject to sections (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"

12. In this case the request was made on 3 October 2017 and the Council responded on 17 November 2017. From the evidence presented to the Commissioner, it is clear that in failing to issue a response to the request within 20 working days, the Council has breached section 10 of the FOIA.

13. As the Council has now issued a response to the request, the Commissioner does not require it to take any further steps.

Right of appeal

14. 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: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk

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

15. 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.
16. 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

Ben Tomes
Team Manager
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Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF