

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 8 March 2024

Public Authority: Goldshaw Booth Parish Council
Address: clerk@goldshawbooth.org.uk

Decision (including any steps ordered)

1. The complainant requested a range of accounting information. Goldshaw Booth Parish Council (the "council") provided some information. The complainant considers that the council failed to deal with their request in accordance with the FOIA.
2. The Commissioner's decision is that the council has not complied with section 1(1) of the FOIA and that it has failed to do this in the timeframe set in section 10(1).
3. The Commissioner requires the council to take the following steps to ensure compliance with the legislation.
 - For each of the parts of the request, issue a new response which either confirms or denies whether the requested information is held and, where it is held; provides it, or cites a relevant provision which removes this duty. In doing so the council should note the observations contained in this decision notice.
4. The council 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

5. On 5 August 2022, the complainant wrote to Goldshaw Booth Parish Council (the "council") and requested the following information:

"(1) In respect of the Internal Auditor, you state that all documents requested were made available, can you please confirm specifically which documents were requested by him?

(2) There is no evidence from the minutes that budget reviews have taken place, so again it must follow that in respect of Internal Control Objective D, as it is documented throughout the year that the accounts were not up to date, how has the required progress against the budget been regularly monitored.?

(3) As this clearly indicates these fundamental points were wrongly declared as being correct at the time the audit was signed, questions of confidence could be raised by electors in the processes/audit followed by the Parish Council. Is there an explanation?

(4) The declaration to the effect that the statements of accounts will not be audited, on explanation of the authorities self-certified status as exempt, is not appended on relevant document on the website. There is also no published record of payments over £100.00. Is there an explanation?

(5) The year-end bank reconciliation, minus the balance of the donation, is substantially in excess of the recommended year-end figures, which should have been highlighted by the internal auditor. Please advise me if this was highlighted and discussed?

(6) Given the balance of the account, why was the precept requested at the same level as the previous year or indeed requested at all?

(7) In respect of the setting of the precept, Internal Control Objective D states the precept requirement resulted from an adequate budgetary process; progress against the budget was regularly monitored; and reserves were appropriate. Minute number 21/22/116 states that bearing in mind the savings made this year, the Chair proposed to present the precept request to PBC without increase. Could you explain when an adequate budgetary process took place and why it was thought that the reserves were appropriate?

(8) I asked the question " I am unsure why you have included figures from 2022/23 and what your comment "I believe interest lies in the one off payments for planning, survey etc. relates to. What interest does this

relate to and from whom?" This question remains unanswered, please clarify your comment.

(9) I am unsure whether Councillors are aware that the Parish Council has no legal powers to hold revenue reserves other than for reasonable working capital and that the year-end general reserve is significantly higher than the annual precept. Please could you explain the reason for this?"

6. Following substantial correspondence between the parties, on 19 July 2023 the council issued a response which addressed some parts of the request.
7. On 18 August 2023 the complainant asked the council to carry out an internal review.
8. On 21 August 2023 the council issued its review response which confirmed that it had nothing to add to its initial response.

Scope of the case

9. On 17 September 2023 the complainant contacted the Commissioner to complain about the way their request for information had been handled.
10. There has been substantial correspondence between the complainant and the council consisting of requests for information and queries regarding decisions taken by the council. The Commissioner has spent some time attempting to extract the relevant information from the case documents. He has also made attempts to establish a dialogue between the council and the complainant in an attempt to informally resolve the outstanding issues. As it has not been possible to obtain informal resolution he is issuing this decision notice to address the complainant's concerns about the timeliness of the council's responses and the extent of information provided falling within the scope of the requests.

Reasons for decision

Section 1 – duty to provide information held

11. Under section 1(1) of the FOIA, public authorities have a duty to confirm or deny whether requested information is held and, where it is, to provide it to a requester.
12. Under section 10(1) of the FOIA, authorities should comply with section 1(1) within 20 working days of the receipt of a request.

13. The Commissioner is mindful that parts of the request take the form of questions which seek the council's views, however, the Commissioner's guidance is clear that questions can be valid requests for information. Authorities are not obliged to create new information in order to address a request. However, upon receiving a request which takes a question form, authorities should consider whether any information that is held would address the terms of the question. This is part of the duty to confirm or deny under section 1(1).
14. The Commissioner has viewed the council's responses to the requester and, whilst he acknowledges they address elements of the request in part, he does not consider that the responses comply with the statutory expectations imposed by section 1(1). He has, therefore, found that the council's handling of the request breaches section 1(1) of the FOIA.
15. The council should, therefore, issue a response in which it addresses each part of the request. For each part it should clearly confirm whether the information is held and, if it is, provide it, or deny the information is held. For any part that the council wishes to confirm the information is held but it is being withheld under an exemption this should be clearly stated in a refusal notice.
16. In view of the council's failure to comply with section 1(1) within 20 working days the Commissioner has also recorded a breach of section 10(1).

Other matters

17. Although they do not form part of this notice the Commissioner would like to note the following matters of concern.

Parish Councils and the FOIA

18. The Commissioner is mindful that parish councils are the first tier of local government and often have limited resources. Whilst he appreciates the difficulties faced by parish councils and the specific issues faced by the council in this case, it is the case that all authorities from parish councils to central government departments have the same obligations under the FOIA. It is the responsibility of all authorities to ensure that they comply with these obligations regardless of their circumstances.
19. In seeking to resolve this complaint informally the Commissioner made several attempts to engage the council in this process but failed to obtain satisfactory assistance. He has concerns that the council may not understand its obligations under the FOIA or that it might be reluctant to comply with its obligations. He expects that, in future, the council will ensure that its handling of requests complies with the FOIA and he will monitor its practice via complaints received.

Advice for complainants

20. In the Commissioner's view, requests can be most effective when they are focused on clearly specified information which it can reasonably be assumed would be held by an authority. Requests which ask authorities to provide explanations or justifications, or which are embedded in correspondence which is not directly relevant may be less effective at securing a satisfactory response and, in some cases, might not be valid requests for recorded information.
21. The Commissioner has published guidance on effective requesting and he recommends that all requesters consider this when making requests to public authorities¹.

¹ <https://ico.org.uk/for-the-public/official-information/preparing-and-submitting-your-information-request/>

Right of appeal

22. 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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

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

23. 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.
24. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Christopher Williams
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