

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 10 November 2011

**Public Authority:** Walberswick Parish Council  
**Address:** Seaspray  
Millfield Road  
Walberswick  
Southwold  
Suffolk  
IP18 6UD

### Decision

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1. The complainant asked Walberswick Parish Council (the council) to provide information on various matters including the council's code of conduct, correspondence submitted to the council, the council's standing orders, and advice provided to the council.
2. The Information Commissioner's decision is that the council did not comply with sections 1, 10 and 17 of the FOIA when responding to the complainant's request. This is because it did not provide the requested information, or a valid refusal notice, within 20 working days of receiving the request.
3. The Information Commissioner (the Commissioner) notes that the council has now provided a new response to the complainant's request. He does not require the council to take any steps.

### Request and response

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4. On 26 October 2010, the complainant wrote to the council and requested information as described in paragraph 1.
5. The council responded on 2 November 2010. It stated that it considered the complainant's request to be vexatious and repeated.
6. The complainant requested an internal review on 12 November 2010. The council responded on 19 November 2010. It stated:

*"We stand by our decision to issue the exclusion notice, and will not correspond with you further on the subject unless you lodge a formal appeal."*

7. The complainant requested a further review on 13 December 2010. Following additional correspondence the council responded on 1 August 2011 upholding its original decision.

### **Scope of the case**

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8. The complainant contacted the Commissioner to complain about the way his request for information had been handled. He does not consider that his requests were repeated or vexatious. He also specifically asked the Commissioner to address a number of procedural breaches of the FOIA that he considers the council committed when responding to his request.
9. In the course of the Commissioner's investigation the council withdrew its reliance on the complainant's request being vexatious and repeated and stated that it would provide the complainant with a new response. It provided this on 28 September 2011. As the council withdrew its reliance on the complainant's requests being vexatious and repeated this has not been considered as part of the Commissioner's investigation.

### **Reasons for decision**

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10. In general the FOIA requires a public authority to respond to a request for information within 20 working days of receipt. Within that time period the public authority must either disclose the information or explain to the requestor why it is not obliged to do so.
11. Having withdrawn its reliance on the complainant's request being vexatious and repeated, in its new response the council has not sought to withhold any information or rely on any exemptions.
12. In its initial response, the council did not confirm or deny whether it held the requested information, or provide any information it did hold. As the council is no longer relying on any claim that it was not obliged to comply with the complainant's request, the Commissioner considers that it was in breach of its obligations under section 1 of the FOIA.
13. The council's response of 2 November 2010 also failed to meet the requirements of a valid refusal notice as it did not include details of the

right of complaint to the Commissioner. This omission was not corrected in the council's internal review decision. Therefore the Commissioner considers that the council also breached section 17 of the FOIA.

14. As the council did not provide a valid response within 20 working days the Commissioner considers that there was an associated breach of section 10 of the FOIA.

## Other matters

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15. The Commissioner notes that the council's response of 2 November 2010 stated:

*"the Parish Council are issuing you with an exclusion notice under the Freedom of Information Act 2000 Section 14(1) and 14(2) for repeated and vexatious requests....The Council will therefore no longer correspond with you."*

The complainant expressed concerns that the council considered that once it had refused a request as vexatious it was no longer required to correspond with the requester on any freedom of information matters. The council has accepted that it misinterpreted how the provisions for vexatious requests applied when responding to the complainant's request.

16. In addressing the complainant's concerns the Commissioner has advised the council about vexatious requests and referred to his published guidance.
17. The complainant also asked the Commissioner to consider the time it took for the council to conduct its internal review. As outlined above, the Commissioner considers that the council's further response of 19 November 2010 constitutes a review of the council's initial decision to refuse the complainant's request. A public authority should deal with any expression of dissatisfaction with a response to a request from a requester as a request for internal review and should only have one further opportunity to review its decision before the requester has a right to complain to the Commissioner. In this case the Commissioner considers that the council completed its review within 20 working days as recommended in the Commissioner's guidance.
18. However, the Commissioner notes the complainant's dissatisfaction that the outcome of the further review he requested on 13 December 2010 was not communicated to him until 1 August 2011. He also notes that the complainant was not informed of his right to complain to the

Commissioner. In addressing the complainant's concerns the Commissioner has written to the council providing guidance on internal reviews and explaining that an internal review should be a one stage process that should generally be completed within 20 working days.

19. The complainant has raised a number of wider points about the council's compliance with the FOIA. The Commissioner has informed the complainant that these matters did not fall within the scope of his investigation.

## Right of appeal

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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: [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)

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 .....

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