

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 9 January 2012

Public Authority: Balsall Parish Council
Address: 9 Hathaway Close
Balsall Common
Coventry
CV7 7EP

Decision (including any steps ordered)

1. The complainant has requested all information held by the council from 1 March 2008 where his name has been mentioned.
2. The Information Commissioner's ('the commissioner's') decision is that the council did not deal with the request for information in accordance with the FOIA in the following way:
 - It failed to provide a response to the request within the statutory time frame of 20 working days.
3. The Commissioner requires the council to take the following steps to ensure compliance with the legislation:
 - To respond to the request in accordance with the requirements of the FOIA.
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 (or the Court of Session in Scotland) pursuant to section 54 of the Act and may be dealt with as a contempt of court.

Request and response

5. On 11 April 2011, the complainant wrote to the council and requested information in the following terms:

"Specifically I want to see all emails from 1st March 2008 to date where my name has been mentioned. This should cover all emails and correspondence between you and the following councillor's and ex-councillors

- [named individual], [named individual], [named individual]
- [named individual] Monitoring officer
- [named individual] Deputy Monitoring Officer and [named individual] SMBC
- [named individual] Rotherhams Solicitors
- [named individual], [named individual], [named individual]
- Ex Councillor [named individual]
- All Emails and correspondence between yourself and the [named individuals] and their solicitors
- All communication with [named individual] regarding the village hall
- Correspondence with the lock smiths between yourself and [named individual] and the village Hall
- Do not forget all the Council business whilst [named individual] was a councillor
- This should also be emails from them where my name has been mentioned

Please find enclosed £10.00 Cash. The information should also include all the minutes of the Parish council, including agenda's items and include all items regarding Chadwick End Village Hall and [named individual]. All correspondence with Play Days Nursery going back 10 years since you was employed by Balsall Parish Council."

6. The council wrote to the complainant on 11 May 2011 stating that work is progressing with the request but in view of the large volume of information involved, it will not be provided on or before the statutory deadline but will be provided as quickly as possible.
7. The council wrote to the complainant again on the 14 June 2011 stating that records have been passed to Solihull Metropolitan Borough Council to process the request as Balsall Parish Council does not have the resources to handle the request.
8. Between 14 and 16 June 2011 several emails passed between the complainant and Solihull Metropolitan Borough Council in relation to the handling of the request.
9. The council once again wrote to the complainant on the 30 July 2011. It stated that it is progressing with the Data Protection and Freedom of Information requests but, as already informed, the council is without staff to deal with the request and have outsourced it to Solihull Metropolitan Borough Council. The council further stated that it had

received advice that it can go ahead with the outsourcing and will keep the complainant informed of any developments.

Scope of the case

10. The complainant contacted the Commissioner on 30 May 2011 to complain about the council's failure to respond to the request.
11. The Commissioner identified that some of the information requested could be the complainant's own personal data and as such should be dealt with as subject access request under the Data Protection Act 1998. The complainant's personal data is therefore outside the scope of this decision notice and is dealt with under a separate data protection case.

Reasons for decision

12. Section 10(1) of the FOIA states that a public authority in receipt of a request for information has a duty to respond within 20 working days.
13. Despite the Commissioner contacting the council on three occasions to request that it issues a response, the council has not responded to the complainant's request for information.
14. It is clear to the Commissioner that, in this case, the council has failed to respond to the request in the time limit set within the FOIA.

Right of appeal

15. 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

Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

16. 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.
17. 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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