

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 28 May 2012

Public Authority: Shotteswell Parish Council
Address: The Old Post Office
Back Hill
Shotteswell
Banbury
OX17 1JG

Decision (including any steps ordered)

1. The complainant requested minutes of any meetings where the parish council had discussed the removal of signs which had been erected on a footpath by the county council.
2. The Commissioner's decision is that Shotteswell Parish Council did not respond to the complainant under the correct legislation. The information is environmental information and the council should have responded to the request under the Environmental Information Regulations 2004. He has also decided that the council breached the Act in that it did not respond to the complainant within 20 working days as required by regulation 5(2).
3. As the information has now been disclosed to the Commissioner he has not ordered any steps within this decision notice.

Request and response

4. On 8 November 2011 the complainant wrote to Shotteswell Parish Council and requested information in the following terms:

"Would you please provide me with copies of the minutes of the Parish council for each occasion on which they have considered this matter. If the matter has not been considered by the parish council, please advise how decisions relating to this matter have been made and provide a copy of the minute of the parish council giving delegated

authority for such action. This should be taken as a formal request for the information under the Freedom of Information Act 2000."

The request relates to signs erected by the county council on a footpath which were subsequently removed by the Parish Council. The requestor is seeking information from the parish council as to how a decision to remove the signs was arrived at by the parish council.

5. The parish council did not respond to the complainant's request.

Scope of the case

6. On 15 December 2011 the complainant contacted the Commissioner to complain about the way his request for information had been handled. His complaint was that the council had refused to respond to his request.
7. Following the Commissioner's intervention the parish council wrote to the complainant on 8 April 2012 supplying him with a copy of minutes which its states are the only minutes which refer to matters which he raised.
8. After the parish council had responded the Commissioner wrote to the complainant and asked him if he would like to withdraw his complaint. The complainant wrote back stating that he wanted the Commissioner to issue a decision notice in this case.

Reasons for decision

9. The Commissioner notes that the information refers to signs which were erected by the county council and which were subsequently removed by the parish council on a public footpath. The signs were for dog owners using the park.
10. The Environmental Information Regulations 2004 define environmental information as information which is on

"the state of the elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites including wetlands, coastal and marine areas, biological diversity and its components, including genetically modified organisms, and the interaction among these elements;" and

"measures (including administrative measures), such as policies, legislation, plans, programmes, environmental agreements, and

activities affecting or likely to affect the elements and factors referred to in (a) and (b) as well as measures or activities designed to protect those elements;”

11. The Commissioner considers that the placement or existence of a sign directed at dog owners will be environmental information. The physical presence of the sign clearly affects elements of the landscape. Additionally restrictions on dog owners' use of the public footpath are likely to be designed to protect the state of the elements of the landscape. For instance the restriction of dogs to dog leads on the public footpath or requiring dog owners who use the public footpath to clean up after their dog are both measures designed to protect elements of the landscape and to protect the health of the public using it. The Commissioner does not know the exact nature of the signage however.
12. The Commissioner therefore considers that the information in question is environmental information and that the council should have dealt with the request under the Regulations rather than the Act.
13. Regulation 5(2) provides that *“Information shall be made available under paragraph (1) as soon as possible and no later than 20 working days after the date of receipt of the request.”*
14. The complainant made his request on 15 December 2011. The parish council did not respond to the request until 8 April 2012.
15. The Commissioner therefore considers that the parish council breached regulation 5(2) in that it did not respond to the complainant's request within 20 working days.

Right of appeal

16. 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

17. 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.
18. 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
Group Manager
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Wycliffe House
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Cheshire
SK9 5AF