

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 15 November 2012

Public Authority: West Felton Parish Council
Address: Landwell House
West Felton
Oswestry
Shropshire
SY11 4LE

Decision (including any steps ordered)

1. The complainant requested various information concerning the operation of West Felton Parish Council (the Council). The Council did not provide a valid response to these requests.
2. The Commissioner's decision is that the Council has breached sections 1 and 10 of the FOIA in that it failed to provide a valid response to the requests within 20 working days of receipt.
3. The Commissioner requires the Council to take the following steps to ensure compliance with the legislation.
 - Provide a response to the requests that complies with section 1 of the FOIA. This response should, unless a provision removing that obligation is claimed, confirm or deny whether recorded information falling within the scope of each of the requests is held. In relation to any information that is held, this should either be disclosed, or reasoning valid for the purposes of the FOIA should be given as to why this information will not be disclosed.
4. The public authority 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. The complainant made a number of information requests to the Council on 4 April 2012, 4 July 2012 and 3 August 2012. For the sake of brevity here these requests are set out in a separate annex.
6. Whilst there was some subsequent correspondence between the complainant and the Council, the complainant did not receive a valid response to his information requests.

Scope of the case

7. The complainant contacted the Commissioner on 12 May 2012 to complain about the failure to provide a valid response to his requests for information. The complainant contacted the Commissioner again following this to complain about the failure to respond to information requests that were made later than this. These later requests were accepted within the scope of this case.

Reasons for decision

Sections 1 and 10

8. Sections 1 and 10 of the FOIA provide that a public authority is obliged to respond to an information request within 20 working days of receipt with confirmation or denial of whether the requested information is held. For any information that is held, this should either be disclosed, or the public authority should give reasoning valid under the FOIA as to why it will not be disclosed.
9. In this case the Council failed to provide a response to the requests that complied with these requirements. In so doing it breached sections 1 and 10 of the FOIA. At paragraph 3 above the Council is now required to provide a response to these requests that is valid for the purposes of the FOIA.

Other matters

10. When presenting its position in this case the Council focussed on the background to these requests. Whilst the Commissioner appreciates that this background may be fraught, and also appreciates that Parish Councils often do not have the resources of larger public authorities, the

Council is nonetheless required to comply with the requirements of the FOIA.

11. Where a public authority is concerned about the impact of a request upon it, the FOIA has provision for a request to be refused on cost grounds under section 12, or as vexatious under section 14. Both of these provisions, however, require that the requester is provided with a written response explaining why their request is refused. For more information on these and all other provisions of the FOIA, the Council should consult www.ico.gov.uk.

Right of appeal

12. 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

13. 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.
14. 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

Jon Manners
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Requests

Date	Wording
4 April 2012	Which of the Parish Council's statutory functional or procedural powers was being exercised in determining that it is improper for its members to communicate with each other in respect of items of business included in agendas for its meeting and the decisions subsequently purported to have been taken in minute 033/12 (a) of its meeting held on 23rd February please?
4 April 2012	Please explain the apparent inconsistency in 'prioritising' formal motions to be included in agendas for Parish council meetings...
4 April 2012	How the Chairman of the Parish Council obtained a copy of a letter I had sent to one of the local electors of the village.
4 April 2012	Has the Parish Council received a copy of the decision notice issued on behalf of Shropshire Council's Standards Committee in relation to Code of Conduct Complaint SC01/12 and, if so, why it has not been submitted to the Parish Council?
4 April 2012	Please inform me as to the current position relating to the purchase of new computer equipment and the cost thereof.
4 April 2012	Please supply me with a copy of [the document prepared by Cllrs Jones and Haworth with consultant Carole Warner as referred to in minute 031/12].
4 April 2012	Please inform me of the statutory power exercised by the Parish Council in making the decision referred to in minute 033/12a purporting to give instructions to parish councillors as to the manner in which they should operate.
4 April 2012	Minutes of the proceedings of Parish Council meetings appear no longer publicly available in accordance with the Parish Council's publication scheme...Please provide me with information as to

the authority for making such changes.

4 April 2012

Draft minutes are no longer being distributed in accordance with the policy agreed by the Parish Council in minute 7.6 of its meeting on 17 May 2007. Please provide me with details of the authority given for such changes.

4 April 2012

Reasons for decisions taken are not being consistently published and/or substantiated in the minutes of Parish Council meetings. Please inform me as to the authority and reasons for such omissions.

4 July 2012

Please provide me with copies of the following documents in relation to the [2011 – 12] Annual Return:

Section 2 – Annual Governance Statement.

Section 4 – Annual Internal Audit Report.

Explanation of Variances proforma.

3 August 2012

I refer to draft minute 121/12 of the Parish Council meeting held on 26 July 2012. Please provide me with specific substantiating information including dates and any relevant copy documents relating to the accusations made against those referred therein of *'intimidation from a particular source'*.