

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 29 April 2013

**Public Authority:** Long Sutton Parish Council  
**Address:** 134 London Road  
Long Sutton  
Lincolnshire  
PE12 9EE

#### Decision (including any steps ordered)

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1. The complainant has requested from Long Sutton Parish Council (the Council) copies of notes and communications broadly relating to the operation of FOIA and the processing of information requests. In addition, he has asked to be provided with a copy of the plans of a particular cemetery. The Council initially advised that it was only prepared to provide information in hard-copy. However, following the Commissioner's intervention, the Council agreed to supply some of the requested information electronically. The Commissioner has been asked to consider the procedural issues connected to the Council's handling of the requests and has found that it breached sections 10(1) (time for compliance) and 16(1) (advice and assistance) of FOIA. However, he does not require any steps to be taken as a result of this notice.

#### Request and response

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2. On 25 June 2012 the complainant emailed the Council and requested information in the following terms:

*In relation to every meeting at which Freedom of Information requests were discussed, including any specific FoI request and/or the Council's compliance with it, whether the meeting was held in camera or in public. Please provide all notes taken at that meeting, including the formal minutes, draft minutes, and the notes taken by each councillor and any staff.*

*For the avoidance of doubt, this specifically includes the meeting at which my previous FoI request was discussed, also the meetings (public*

*AND in camera) of Thursday, 24<sup>th</sup> May, the extraordinary meeting held on Wednesday, 30<sup>th</sup> May, and all other meetings, for example the extraordinary meeting booked for the council meeting held after 31<sup>st</sup> March.*

*Please also provide copies of all communications sent or received this calendar year in relation to FoI requests, and/or the Council's duties / compliance with the FOI Act. Please ensure this includes all correspondence to or from the Information Commissioner's Office, Councillor [x], Councillor [y], Councillor [z], and any other councillors / employees on this matter.*

*Finally, please provide a copy of the full size plans of Cinder Ash Cemetary [sic], as currently held in the bank vaults.*

3. The Council provided its substantive response on 5 July 2012. It advised the complainant that only hard copies of information would be provided, requiring payment of disbursement costs in advance. The Council therefore asked that the complainant provide details of his postal address and a written agreement stating he was prepared to pay any relevant costs for printing and postage. The Council also clarified that the cemetery plans were not currently stored in the bank vaults but confirmed that other documents relating to the site were contained there.
4. The complainant wrote to the Council later the same day and argued that an email address is a valid address for the purposes of the legislation. He therefore asked that the Council use the email address to respond with the information. The complainant also specified the nature of the cemetery plans he required.
5. The Council contacted the complainant again on 16 July 2012 in light of his comments. It enclosed a copy of the Council's FOI Policy, confirming that this stated only hard copies will be provided in response to a request. The Council explained that the policy had been adopted upon external advice and was designed to prevent vexatious requests and timewasting; repeating its request for the complainant to provide his postal address and a written agreement.
6. On the same date, the complainant challenged the Council's position, claiming that the insistence on providing information in hard-copy was counter to the provisions of the legislation and the interpretive guidance published by the Commissioner. He further reminded the Council that the proper recourse for dealing with vexatious requests was to apply section 14 of FOIA.

7. The Council wrote to the complainant on 1 August 2012 and informed him that it was appropriate to provide the information in hard-copy because it did not have the facilities to copy larger than A4, nor the means to scan documents. The Council subsequently reiterated its request for the complainant to provide his address details and a written agreement.
8. On 24 July 2012 the complainant contacted the Commissioner and asked him to consider the Council's refusal to respond to his request in any medium other than paper. In light of the complaint, the Commissioner contacted the Council on 19 September 2012 and encouraged it to review the handling of the requests, bearing in mind his published guidance.
9. The Council wrote to the complainant on 4 October 2012, enclosing information covered by the scope of the requests. The Council explained that any additional information he had requested could not be provided electronically or otherwise did not exist.

### **Scope of the case**

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10. The complainant contacted the Commissioner on 9 October 2012 to complain about the way his requests for information had been handled.
11. The complainant has informed the Commissioner during the course of the investigation that the decision notice should focus on the question of whether the Council complied with sections 10 and 16 of FOIA by its processing of the requests.

### **Reasons for decision**

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#### **Section 10(1) – time for compliance**

12. Section 10(1) of FOIA requires that a public authority complies with section 1(1) promptly and in any event not later than 20 working days following the date that the request was received. Section 1(1) states that a public authority should confirm whether it holds relevant recorded information and, if so, to communicate that information to the applicant.
13. In this case the Council disclosed information it held and which could be provided outside of the statutory time limit for compliance with requests. The Commissioner has therefore found that the Council breached the provisions of section 10(1) of FOIA.

## **Section 16 – advice and assistance**

14. Section 16(1) states that it shall be the duty to provide advice and assistance, so far as it would be reasonable to expect the authority to do so, to persons who propose to make, or have made, requests for information to it.
15. The complainant has argued that, by initially insisting that *all* the requested information could only be made available in hard-copy which was later found not to be the case, the Council failed to meet its duty to provide an appropriate level of advice and assistance.
16. The Commissioner recognises that the duties imposed by section 16 are extensive and are meant to promote as far as possible the ability of an applicant to access the information they are seeking. With this in mind, the Commissioner has decided that the Council breached section 16 by not advising that parts of the requested information could be provided in an electronic format.

## Right of appeal

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17. 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)

18. 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.
19. 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 .....**

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