

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 9 September 2013

**Public Authority:** Briston Parish Council  
**Address:** Parish Office  
Recreation Ground Off Hall Street  
Briston  
Norfolk

### Decision (including any steps ordered)

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1. The complainant has requested information in relation to the suspension or dismissal of a clerk.
2. The Commissioner's decision is that Briston Parish Council (the council) has breached section 10(1) of FOIA by not providing a full response to the complainant.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
  - Provide a full response to the complainant's information request.
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

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5. On 2 April 2013, the complainant wrote to the council and requested information in the following terms:

*"Please supply the following:*

- *Copies of all council minutes since early 2011 (including minutes of any 'confidential' meetings or meetings where the public were excluded) which make any mention of the suspension / dismissal*

*of the Clerk, advise being sought from solicitors & NALC, discussion or resolutions passed by the Council in respect of this.*

- *Copies of the actual advice received from the Solicitors / NALC before the council took the decision to dismiss*
- *Copy of the Council minutes which agreed the wording of the 'statement' that you kindly emailed me*
- *Copy of the council minutes which agreed that "As far as Briston Parish Council is concerned this matter is now closed and will not be discussed further"*
- *Detailed breakdown of all costs incurred by the Parish Council in relation to the dismissal & subsequent Tribunal (legal fees and other costs)*
- *Copy of the Council's disciplinary procedures as at the date of the dismissal*

*I am happy to receive electronic / scanned copies of the above"*

6. The council acknowledged the request on 23 April 2013 and arranged for the complainant to inspect the requested information on the 27 April 2013.
7. On the 29 April 2013, the complainant contacted the council and advised the following:

*"I have now had time to study the documents [named clerk] provided. The one crucial document missing is the advice you received from NALC, please can this be provided as soon as possible along with how this was communicated to all councillors before they took the decision to send the dismissal letter on 3<sup>rd</sup> October 2011 (as minute 4384 is brief in the extreme – it doesn't even mention the nature of the letter or recipient, which I do find somewhat strange considering the verbosity of other minutes)"*

## **Scope of the case**

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8. The complainant contacted the Commissioner on 21 May 2013 to complain that the council have not responded to his email dated 29 April 2013, where he advised what information was missing in relation to his information request.
9. The Commissioner wrote to the council on the 4 June 2013 and 15 August 2013 asking it to respond to the complainant within 10 workings days of each of the letters, in relation to the missing information.
10. To date neither the Commissioner nor the complainant has received a response from the council with regards to the missing information.

11. The Commissioner will therefore consider whether the council has breached section 10(1) of the FOIA.

### **Reasons for decision**

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12. Section 10(1) of FOIA states that:

*"a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt."*

13. As the council have not provided a full response to the complainant's information request, and twenty working days has since passed from the original information request, the Commissioner finds that the council has breached section 10(1) of the FOIA.

## Right of appeal

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14. 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)

15. 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.
16. 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**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**