

Freedom of Information Act 2000 ('FOIA')
Environmental Information Regulations 2004 ('EIR')
Decision notice

Date: 13 February 2014

Public Authority: **Sturminster Marshall Parish Council**

Address: **Sunridge**
Alfred Street
Blandford Forum
Dorset
DT11 7JN

Decision (including any steps ordered)

1. The complainant has requested from Sturminster Marshall Parish Council ('the council') the amount of money incurred in an application for a right of way. Despite the intervention of the Commissioner, the council has not provided an adequate response to the request in accordance with the FOIA or EIR. The Commissioner therefore reminds the council of its obligations and requires that it issue a fresh response under the FOIA or the EIR.
2. The public authority must take this step 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

3. On 31 August 2013, the complainant requested information in the following terms via the council's website:

"Please could Sturminster Marshall Parish Council provide me with full details of the amount of money incurred from September 2003 to date in their application to make Lambs Lane into a public right of way."

4. The parish clerk replied the next day as follows:

"I took on the office of clerk in April 2009 and since then there has been no cost or expense attributable to Lambs Lane. [Named individual] and myself travelled to Dorchester during my period as clerk to attend a meeting and there were no claims put in for any monies to be reimbursed either for petrol or time. I will need to conduct further research to see if either or the other two clerks who held office during the time this issue has been running had cause to attribute costs to the project."

5. On 21 September 2013, the complainant wrote to the council expressing dissatisfaction that the requested information had not been provided.
6. The council acknowledged the above correspondence on 24 September 2013 stating that it would answer the case when asked to do so.

Scope of the case

7. The complainant contacted the Commissioner on 24 September 2013 to complain about the lack of response to her request.
8. The Commissioner has considered whether the council have responded adequately to the request in accordance with the FOIA or EIR.

Reasons for decision

9. 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.
10. Regulation 5(1) states that a public authority that holds environmental information shall make it available on request. Regulation 5(2) states that this information shall be made available as soon as possible and no later than 20 working days after the date of receipt of request.
11. On 11 October 2013, the Commissioner requested that the council issue a response to the complainant within 10 working days. He explained that the council should state whether or not the information is held in a recorded form and, if held, it should either provide the information or issue a refusal notice in accordance with the requirements of section 17 of the FOIA or regulation 14 of the EIR as appropriate.
12. The council wrote to the Commissioner on 15 October 2013 stating that further information is a little hard to come by. It said that the relevant files are with Dorset County Council and that when they are received

back they will be studied to see if they contain any more information as to costs.

13. The Commissioner contacted the council again on 6 November 2013 and informed it that the complaint has been deemed eligible for formal consideration under section 50 of the FOIA.
14. To date, the council has not provided an adequate response to the complainant. It is clear to the Commissioner that, in this case, the council has failed to adequately respond to the request in accordance with the FOIA or EIR in that it did not explain which provisions of the legislation (if any) it was relying upon.
15. The Commissioner notes that the requested information may have been passed to Dorset County Council. However, in accordance with section 3(2)(a) of the FOIA, he considers that any relevant information held by Dorset County Council in this case would be likely to be considered as held by Sturminster Marshall Parish Council as it is held by another person on its behalf.

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: GRC@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

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
Water Lane
Wilmslow
Cheshire
SK9 5AF