

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 6 August 2014

Public Authority: Kirby Muxloe Parish Council

Address: Station Road
Kirby Muxloe
Leicester LE9 2EN

Decision (including any steps ordered)

1. The complainant has requested information about Kirby Muxloe Parish Council correspondence and papers relating to a particular Parish Council meeting. Kirby Muxloe Parish Council has, at the date of this notice, yet to provide a substantive response to the requests.
2. The Commissioner's decision is that Kirby Muxloe Parish Council has breached section 1, (right of access) section 10 (time for compliance) and section 17 (refusal of request) of the FOIA because it has failed to provide a valid response to the requests within 20 working days of receiving them.
3. The Commissioner requires the public authority to issue a response to both requests under the FOIA.
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.

Requests and response

5. On 14 January the complainant wrote to Kirby Muxloe Parish Council ('the Council') and requested information in the following terms (FS50537855):

"Please may I have copies of the correspondence the Parish Council has hand with the Charity Commission concerning the 2 leases (Trust land leased to the Primary School), both your letter and their response."

6. The Council did not provide a response and did not provide a response following the Commissioner's intervention on 17 April.
7. The complainant told the Commissioner that they had submitted a second request on 15 April (FS50543866) which the Council had also not responded to, specifically:

"For my information I would like copies of all the papers distributed to the councillors in preparation for the meetings 22nd April 2014, both the Trustee and the Parish Council meeting."

8. They clarified this request in a separate email to the Parish Clerk, dated 30 April:

The documents that you did not supply me with and are related to the Parish Council meeting held on the 22nd April 2014 are-

- 1. The payment order paper for the previous month item 10.i*
- 2. The receipts list not mentioned on the agenda (perhaps a simple error not mentioned).*
- 3. The Charity Commission letter dated 16th April 2014 which was read out at the meeting item 11.ii*

I would also like to have copies of the 7 quotes for Grounds Maintenance contract and the company/firm who won the contract, I believe this was quote number 3."

9. In an email dated 25 June, the Council told the Commissioner that the complainant had now received all the information they had requested except for certain meeting papers that it said were confidential, and quotations that it said were commercially sensitive information.
10. The Commissioner wrote to the Council on 26 June and asked for clarification but the Council did not respond. The Commissioner contacted the Council again on 22 July but, again, did not receive a response.

Scope of the case

11. The complainant had contacted the Commissioner on 9 April to complain about the way their requests for information had been handled. In a subsequent telephone conversation with the Commissioner on 14 July, the complainant disputed the Council's assertion that they had received all the information they had requested.
12. The complainant said that while the Council had supplied some information on 17 June – an annual return/account for 2013/2014 and a payment list – this was as a result of the complainant going to the Council office to ask for it, and that what had been provided did not fully address their specific requests. Having seen the information that the Council has released, the Commissioner considers the complainant's assessment of it is correct.
13. The Commissioner therefore focussed his investigation on whether Kirby Muxloe Parish Council complied with section 1, section 10 and section 17 of the FOIA.

Reasons for decision

14. Section 1 of the FOIA says that an individual who asks for information is entitled to be informed whether the information is held and, if the information is held, to have that information communicated to them.
15. Section 10 of the FOIA says that a public authority must respond to a request promptly and not later than the twentieth working day following the date of receipt.

16. Section 17 of the FOIA says that:

"A public authority which, in relation to any request for information, is to any extent relying on a claim that any provision of Part II relating to the duty to confirm or deny is relevant to the request or on a claim that information is exempt information must, within the time for complying with section 1(1), give the applicant a notice which—

- (a) states that fact,*
- (b) specifies the exemption in question, and*
- (c) states (if that would not otherwise be apparent) why the exemption applies."*

17. In these cases, Kirby Muxloe Parish Council has not provided a substantive response after over 100 days (in the case of FS50537855) and over 50 days (in the case of FS50543866) following receipt of the requests.

Other matters

18. As well as finding above that Kirby Muxloe Parish Council is in breach of the FOIA, the Commissioner has also made a record of the delay in these cases. This may form evidence in future enforcement action against the Council should evidence from other cases suggest that there are systemic issues within the Council that are causing delays.

Right of appeal

19. 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

20. 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.
21. 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

Pamela Clements
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