

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 17 February 2016

Public Authority: St Pinnock Parish Council

Address: Mrs J Hoskin
Branston Farm
Bodmin Road
Bodmin
PL30 4BB

Decision (including any steps ordered)

1. The complainant requested information from St Pinnock Parish Council (the 'parish council') relating to minutes, agendas and end of year information.
2. The parish council acknowledged the complainant's request and provided some relevant information but has not issued a response which fulfils its obligations under the terms of the FOIA.
3. The Commissioner's decision is that the parish council has breached sections 1(1) and 10(1) of the FOIA.
4. The Commissioner requires the parish council to take the following steps to ensure compliance with the legislation:
 - issue a response to the complainant in compliance with FOIA with respect to the outstanding parts of the request.
5. St Pinnock Parish Council 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

6. The complainant wrote to the parish council on 20 June 2015 asking for various information including end of year information, minutes and agendas:

"Could you please forward me by e-mail the following information?"

•End of year information

a. all items of expenditure above £100;

b. end of year accounts. This should include:

- i. The relevant page of the completed Annual Return form*
- ii. The statement of accounts (approved and signed by the Responsible Financial Officer and the Chairman of the meeting approving the statement of accounts) and should be accompanied by:*

- 1. a copy of the bank reconciliation for the financial year 2014/15*

- 2. an explanation of any significant variances (e.g. more than 10-15 percent, in line with proper practices) in the statement of accounts for the relevant year and previous year, and*

- 3. an explanation of any differences between 'balances carried forward' and 'total cash and short term investments', if applicable.*

c. annual governance statement,

d. internal audit report,

e. list of councillor or member responsibilities, and

f. the details of public land and building assets.

•Minutes:

a. Part 2 of all minutes for the last financial year (April 2014 to March 2015 inclusive)

b. Complete minutes for April, May and June (draft minutes) 2015 together with any supporting documents.

•*Agendas:*

2014 April, May, June, July, September, November, December, January".

7. The parish council acknowledged the request on 17 July 2015. It provided some information within the scope of the request on 20 July 2015 but, at the time of writing, it has failed to respond substantively with respect to the remaining requested information. This failure to respond is despite a reminder from the complainant on dates including 11 August 2015 and 5 October 2015 and correspondence from the Commissioner on 23 November 2015 and 2 February 2016.

Scope of the case

8. Following earlier correspondence, the complainant contacted the Commissioner on 17 November 2015 to complain about the way his request for information had been handled, specifically the failure of the parish council to respond in full to his information request. He stated that a response remains outstanding with respect to various items of information.
9. The Commissioner notes that not all of the information that the complainant describes as outstanding falls within the scope of his original request.
10. This decision notice will consider whether the parish council has complied, under section 1 of the FOIA, with those aspects of the request for information that were requested on 20 June 2015 and remain outstanding. That information comprises:
 - *Part 2 for all monthly meeting minutes from April 2014 to March 2015 inclusive*
 - *End of year information namely:*
 - *All items of expenditure over £100*
 - *a copy of the bank reconciliation for the financial year 2014/15,*
 - *an explanation of any significant variances (e.g. more than 10-15 percent, in line with proper practices) in the statement of accounts for the relevant year and previous year, and*
 - *an explanation of any differences between 'balances carried forward' and 'total cash and short term investments', if applicable.*

- o *list of councillor or member responsibilities, and*
- o *the details of public land and building assets.*

Reasons for decision

Sections 1 and 10

11. Section 1(1) of the FOIA provides a qualified right of access to recorded information held by a public authority.
12. Section 1 of FOIA requires that, upon receipt of a request for information, a public authority confirms whether it holds that information and, if it does, to communicate that information to the applicant unless the information is exempt or there are other grounds for refusing the request.
13. If there are grounds for refusing the request, the public authority must issue a refusal notice in accordance with section 17 of FOIA, explaining why it has refused the request. The section 17 refusal notice must also provide details of any internal review procedure that the public authority operates, together with applicant's right to complain to the Commissioner.
14. Section 10(1) of the FOIA states that a public authority must respond to a request promptly and 'not later than the twentieth working day following the date of receipt'.
15. The Commissioner recognises that there has been communication at intervals between the complainant and the parish council. However, the parish council failed to engage with the Commissioner during the course of his investigation. As a result, the parish council did not provide the Commissioner with any explanation about its handling of the request, nor did it cite any exemptions or explain why it was refusing to provide the outstanding information.
16. The Commissioner finds that the parish council failed to handle the request in accordance with the provisions of FOIA. It should have either confirmed whether it held the information and, if so, communicated that information in accordance with section 1, or issued a refusal notice under section 17 explaining its grounds for refusing the request.
17. In this case the parish council has breached sections 1(1) and 10(1) by failing to respond to the request within 20 working days. The Commissioner requires the parish council to issue a response to the complainant under the FOIA.

Other matters

18. As well as finding above that the parish council is in breach of the FOIA, the Commissioner has also made a record of the delay in this case.
19. The FOIA is to do with transparency of information held by public authorities. The FOIA does not require public authorities to generate information or to answer questions, provide explanations or give opinions, unless this is recorded information that they already hold.
20. In order to assist the parish council with further FOIA requests, the parish council should refer to the ICO guidance below:

<https://ico.org.uk/for-organisations/guide-to-freedom-of-information/>

21. He would also draw the parish council's attention to his published guidance about publication schemes:

<https://ico.org.uk/for-organisations/guide-to-freedom-of-information/publication-scheme/>

Right of appeal

22. 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: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk

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

23. 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.
24. 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