

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 21 March 2017

Public Authority: Leyburn Town Council
Address: Thornborough Hall
Moor Road
Leyburn
North Yorkshire
DL8 5AB

Decision (including any steps ordered)

1. The complainant has requested a copy of the Clerk's handwritten notes from a specified meeting. Leyburn Town Council (the council) initially failed to deal with the request in accordance with the FOIA. Following the Commissioner's involvement, the council complied with the request. The council therefore breached section 10 of the FOIA in not complying with the request within 20 working days.
2. The Commissioner's decision is that the council failed to comply with section 10 of the FOIA.
3. As the council has now complied with the request, the Commissioner does not require the public authority to take any steps.

Request and response

4. On 7 June 2016 the complainant made the following request for information:

"I hereby make a freedom of information request to be provided with a photocopy of the above document [copy of original notes made at the meeting of Leyburn Town Council, 16 May 2016]"

5. The council responded on 30 June 2016. It explained that the Local Government Act 1972 (the LGA) did not entitle the complainant to the

handwritten minutes, and therefore the council would not be sending them to him.

6. The complainant replied on 8 July 2016 and expressed dissatisfaction at the council's response. Whilst the majority of the dissatisfaction was centred on interpretation of the LGA, he also stated:

"I therefore insist that I receive a copy of the handwritten notes. I am also reliably informed that my request is regarded to have been made properly under the Freedom of Information Act."

7. The Commissioner then wrote to the council on 27 July 2016 to ask the council to conduct an internal review which addressed the failings of the response of 30 June 2016.
8. The council then wrote to the complainant on 11 August 2016, confirming that the information was held and advising that it relied on section 22 of the FOIA to withhold the information as it is information which is intended for publication. The Commissioner therefore understood this to be the internal review. The complainant responded on 23 September 2016 disputing that this was an internal review.
9. However, on 23 September 2016 the council wrote to the complainant stating that an internal review had not yet taken place. The council advised that it was now treating his email of 23 September 2016 as a request for internal review as it was the first one in which he had expressed dissatisfaction at the FOIA response (11 August 2016). The council confirmed that an internal review would be conducted at full council meeting before 18 November 2016. Following further correspondence with the complainant, the council again confirmed on 26 September 2016 that the FOI request is complete and that an internal review would be carried out.
10. Following further correspondence between the Commissioner and the council, on 8 February 2017, the council provided the requested information to the complainant.

Scope of the case

11. The complainant submitted his complaint to the Commissioner on 19 July 2016. He complained that the council had not provided him with the requested information and had failed to respond to his request in accordance with the FOIA. Following the Commissioner's intervention in this case, the council agreed that section 22 did not apply, and provided the requested information to the complainant.

12. The complainant asked the Commissioner to formally record the council's late response in a decision notice. Therefore, the scope of this case is to record a section 10 breach.

Reasons for decision

13. Under section 1(1) of the FOIA, anyone who requests information from a public authority is entitled (a) to be told whether the authority holds the requested information and (b) to have the information communicated to him or her if it is held.
14. Section 10(1) of FOIA provides that a public authority must comply with section 1(1) promptly and in any event within 20 working days.
15. In this case, as the council failed to communicate the requested information to the complainant until 8 February 2017, over 6 months after the original request, the Commissioner finds that the council failed to comply with section 10.

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 123 4504

Fax: 0870 739 5836

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
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