

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 13 January 2020

Public Authority: Chepstow Town Council
Address: The Gatehouse
High Street
Chepstow
Gwent
NP16 5LH

Decision (including any steps ordered)

1. The complainant requested a copy of the minutes for a closed meeting. Chepstow Town Council ("the Council") provided some information but not within 20 working days.
2. The Commissioner's decision is that the Council failed to comply with section 1(1) of the FOIA within 20 working days and thus breached section 10 of the FOIA. It also failed to provide an adequate refusal notice within 20 working days and therefore also breached section 17 of the FOIA.
3. The Commissioner does not require any further steps.

Request and response

4. On 22 May 2019, the complainant wrote to the Mayor of Chepstow and requested information in the following terms:

"Can you please arrange for a copy of the minutes of the extraordinary meetings that you presided at, dated 1 and 15 of May, to be sent to us under an FOI request."
5. The Council responded on 9 September 2019. It provided some information.

6. The complainant requested an internal review on 9 September 2019 on the grounds that not all the information she had requested had been provided. The Council completed its internal review on 30 September 2019. It provided another document but redacted a section. It relied on section 41(1) of the FOIA to withhold the redacted information.

Scope of the case

7. The complainant first contacted the Commissioner on 2 August 2019 to complain about the lack of response. The Commissioner's intervention was necessary to get the Council to respond to the request.
8. Following the internal review, the complainant remained dissatisfied with the Council's response and asked the Commissioner to investigate.
9. On 11 November 2019, the Commissioner issued decision notice FS50845077¹ in respect of a related complaint involving the same parties. The request which was the subject of FS50845077 was for a confidential report which had been presented to the same meeting specified in the present request. In that notice, the Commissioner decided that the Council had failed to demonstrate how section 41(1) related to the information it wished to withhold, but that the information was personal data and thus exempt from disclosure anyway.
10. At the outset of her investigation, the Commissioner reviewed the redacted version of the information. Based on her knowledge of the previous complaint (and the withheld information which was the subject of that complaint), she therefore suggested to the complainant that the likelihood of any further information being disclosed as a result of a further investigation was minimal.
11. The complainant agreed that, given the passage of time and the events that had occurred since the request was first made, pursuing a substantive complaint in relation to the request would serve no useful purpose. However she wished the Commissioner to make a formal record of the delays in obtaining information from the Council.
12. The Commissioner considers that the scope of her investigation is to determine whether the Council's response complied with the FOIA.

¹ <https://ico.org.uk/media/action-weve-taken/decision-notice/2019/2616392/fs50845077.pdf>

Reasons for decision

13. Section 1(1) of the FOIA states that:

Any person making a request for information to a public authority is entitled –

- (a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and*
- (b) if that is the case, to have that information communicated to him.*

14. Section 10 of the FOIA states that a public authority must comply with its section 1(1) duty “*promptly and in any event not later than the twentieth working day following the date of receipt.*”

15. From the evidence presented to the Commissioner in this case, it is clear that, in failing to provide information any of the requested information within 20 working days, the Council has breached section 10 of the FOIA.

16. Section 17(1) of the FOIA states that when a public authority wishes to withhold information or to neither confirm nor deny holding information it 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. Section 17(7) of the FOIA states that

A notice under subsection (1), (3) or (5) must—

- (a) contain particulars of any procedure provided by the public authority for dealing with complaints about the handling of requests for information or state that the authority does not provide such a procedure, and*
- (b) contain particulars of the right conferred by section 50.*

18. The Commissioner notes that the Council did not confirm that it was withholding information or cite an exemption which would allow it to do

so until more than 20 working days after the request was received. The Commissioner also notes that the Council did not, in its response of 9 September 2019, inform the complainant of the details of its internal review process and did not, in either its initial response or its internal review, inform the complainant of her right, under section 50 of the FOIA, to bring a complaint to the Commissioner.

19. The Commissioner therefore finds that the Council breached section 17 of the FOIA in responding to the request.

Right of appeal

20. 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@justice.gov.uk

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

21. 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.
22. 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

Phillip Angell
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
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SK9 5AF