

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 8 June 2022

Public Authority: West Chiltington Parish Council

Address: The Parish Office
Church Street
West Chiltington
RH20 2JW

Decision (including any steps ordered)

1. The complainant requested information from West Chiltington Parish Council ("the Council") relating to the inspection of a skate park.
2. The Commissioner's decision is that the Council failed to confirm or deny whether it holds the requested information. Consequently the Commissioner finds that the Council breached section 1(1) and section 10(1) of FOIA.
3. The Commissioner requires the Council to take the following steps to ensure compliance with the legislation.
 - Issue a fresh response to the request which clearly confirms or denies whether the requested information is held. If the requested information is held, that information should either be disclosed, or the Council should provide an adequate refusal notice.
4. The 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 FOIA and may be dealt with as a contempt of court.

Request and response

5. On 7 July 2021, the complainant wrote to the Council and requested information in the following terms:

“Thank you for the copy of the post installation inspection report on the skate ramp.

I note that there were eleven failures to meet the requirements of BS EN 14974 along with a further eight occasions where the structure failed to meet the recommendations of BS EN 14974.

As the skate park is now open to the public and fully operational could you please inform me if any further inspection has taken place or been requested by the Parish Council subsequent to the 2nd March visit to ensure that, both the failure to meet the requirements of BS EN 14974, and also to implement the recommended actions mentioned in the report have been acted upon.

If there has been a further visit to inspect the site, could you please send me a copy of the report.”

6. The final position of the Council was that it had provided the complainant with the requested information.

Reasons for decision

7. This reasoning covers whether the Council has correctly stated that it has provided the complainant with the information they requested on 7 July 2021.
8. The position of the Council is that it has provided the complainant with the requested information. Specifically, the Council stated that there were no major findings in the March report and that any issues have been attended to by a contractor. The Council also confirmed that the skate park was to be inspected in September as part of the Parish Council’s annual inspection programme.
9. The complainant considers that the Council has not provided them with the information they requested on 7 July 2021 as the Council has not confirmed whether a further inspection of the skate park has taken place since the inspection on 2 March 2021. Furthermore, if an inspection has taken place, the Council has not provided the complainant with a copy of that inspection report.

10. The Commissioner considers that the Council has failed to clearly confirm or deny whether it holds the requested information. Specifically, it did not state clearly whether an inspection took place between 2 March 2021 and the date of the request, nor provided a copy of the report of any such inspection. Therefore, the Commissioner's decision is that the Council has breached section 1(1) (general right of access to information) and section 10(1) (time for compliance) of the FOIA.
11. The Commissioner requires the Council to provide the complainant with a fresh response which confirms or denies whether the requested information is held. If the requested information is held, that information should either be disclosed to the complainant or an adequate refusal notice should be provided.

Right of appeal

12. 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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

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

13. 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.
14. 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

Ben Tomes
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF