

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 26 January 2022

Public Authority: Hughenden Parish Council
Address: Council Office
The Common
Great Kingshill
High Wycombe
HP15 6EN

Decision (including any steps ordered)

1. The complainant requested information from Hughenden Parish Council (the Council) about a report which is required for the transfer of ownership of areas of land. By the date of this notice Hughenden Parish Council had not issued a substantive response to this request.
2. The Commissioner's decision is that the Council has breached section 10(1) of the FOIA in that it failed to provide a valid response to the request within the statutory time frame of 20 working days.
3. The Commissioner requires the Council to take the following step to ensure compliance with the legislation.
 - The Council must provide a substantive response to the request in accordance with its obligations under the FOIA.
4. The Council must take this step 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

5. On 13 September 2021, the complainant wrote to the Council and requested information in the following terms:

"I would refer you (and councillors) to the requirement in HPC's Financial Regulations at paragraph 14.4 that:-

No real property (interests in land) shall be disposed, leased or otherwise disposed of without the authority of the council, together with any consents required by law. In each case a report in writing shall be provided to council in respect of valuation and surveyed condition of the property (including matters such as planning permission and covenants) together with a proper business case (including an adequate level of consultation with the electorate).

So, when you respond to [name redacted], identifying at which council meeting council decided HCST owned the land, I would be grateful for a copy of the report which the Regulations require to be provided."

6. To date, a substantive response to the request has not been issued.

Scope of the case

7. The complainant contacted the Commissioner on 10 December 2021 to complain about the Council's failure to respond to their request.
8. The Commissioner has considered whether the Council has complied with its obligations in relation to the time for compliance at section 10(1) of the FOIA.

Reasons for decision

9. 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."

10. 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”.
11. On 22 December 2021 the Commissioner wrote to the Council, reminding it of its responsibilities and asking it to provide a substantive response to the complainant’s request within 10 working days.
12. The Council responded promptly, on the same date, asking for clarification on which information request the Commissioner’s letter referred to.
13. The Commissioner responded to the Council on 4 January 2022, to provided further information about the date and wording of the information request, and again asked the Council to provide a substantive response to the complainant’s request within 10 working days.
14. Despite this intervention the Council has failed to respond to the complainant.
15. From the evidence provided to the Commissioner in this case, it is clear that the Council did not deal with the request for information in accordance with the FOIA. The Commissioner finds that the Council has breached section 10(1) by failing to respond to the request within 20 working days and it is now required to respond to the request in accordance with the FOIA.

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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.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

Michael Lea
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Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF