

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 22 November 2012

**Public Authority:** Bretforton Parish Council  
**Address:** 6 Station Road  
Bretforton  
Evesham  
Worcestershire  
WR11 7HX

#### Decision (including any steps ordered)

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1. The complainant has requested a copy of a computerised burial plan. The Commissioner's decision is that the public authority did not deal with the request in accordance with the FOIA. The Commissioner considers that the public authority has breached section 10(1) of the FOIA by failing to respond within the statutory time limit of 20 working days.
2. The Commissioner does not require the public authority to take any action as a result of this notice.

#### Request and response

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3. On 5 April 2012, the complainant wrote to Bretforton Parish Council ('the council') and requested information in the following terms:  

"I hereby request a copy of the Computerised Burial Plan. For the purpose of this request I wish that to be the actual Computer File, not a printout."
4. Having received no response to the request, the complainant wrote to the Commissioner on 21 May 2012 to complaint about the failure to respond.
5. The Commissioner wrote to the council on 18 July 2012 requesting that it issue a response within 10 working days.

6. The council responded to the request on 24 July 2012.

### **Scope of the case**

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7. The complainant contacted the Commissioner to complain about the lack of response to his request. He initially requested that the Commissioner impose a penalty on the council. During the investigation and after having received a response, the complainant specifically requested that the Commissioner issue a decision notice for council's failure to provide the information within the statutory time period.

### **Reasons for decision**

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8. Section 1(1) of FOIA requires a public authority in receipt of a request to confirm whether it holds the requested information, and if so, disclose it to the applicant. Section 10(1) of FOIA provides that this must be done within 20 working days of receiving a request.
9. In correspondence with the Commissioner the council stated that as the complainant is aware that he can ask to view the records at any time, and has done so in the past, its response to him wasn't treated as a formal request. The Commissioner does not consider that such knowledge or previous actions negate the duty to respond to the request under section 1(1).
10. The request was submitted on the 5 April 2012. The council did not respond until 24 July 2012, over 3 months later. The Commissioner therefore finds that the council did not make the information available within 20 working days and consequently finds a breach of section 10(1) of FOIA.

### **Other matters**

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11. The Commissioner has informed the complainant that he does not have the power to fine public authorities for breaches of the FOIA but that the delay in providing this response has been logged and will be used to monitor any persistent trends which might indicate that a public authority is routinely failing to respond within the statutory 20 working days permitted under section 10 of the FOIA.

## Right of appeal

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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: 0300 1234504

Fax: 0116 249 4253

Email: [informationtribunal@hmcts.gsi.gov.uk](mailto:informationtribunal@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm](http://www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm)

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** .....

**Andrew White**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**