

Freedom of Information Act 2000 ('FOIA')

Decision notice

Date: 28 January 2013

Public Authority: West Chiltington Parish Council

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

Decision (including any steps ordered)

1. The complainant has requested information relating to the composition and costs of running West Chiltington Parish Council ('the council'). Despite the intervention of the Commissioner, the council has not provided a response to the request in accordance with the FOIA. The Commissioner therefore reminds the council of its obligations under the FOIA and requires that it either respond to the request in accordance with the legislation or issue a valid refusal notice under section 17(1).
2. The public authority 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 the Act and may be dealt with as a contempt of court.

Request and response

3. On 16 January 2012, the complainant wrote to the council via the WhatDoTheyKnow website and requested information in the following terms:

"I am writing to request a copy of the exact boundaries of the Council and exact the ward boundaries (if applicable), preferably in the form of a map.

I am also formally requesting a full list of the following:

- all councillors;
 - all councillors political party affiliation;
 - all councillors claimed allowances and expenses;
 - all councillors' declaration of interests;
 - all councillors attendance records for all council meetings, committees and official council functions;
 - how much the cost of the previous ordinary/general council elections cost;
 - all vacancies which have occurred on the council since the previous election of members to the council;
 - how many of the vacancies on the council were filled by co-option;
 - how many vacancies on the council were filled by election after the submission of a petition calling an election;
 - how much each vacancy cost to advertise;
 - how much each co-option to fill a vacancy cost;
 - how much each election to fill a vacancy cost;
 - how much the annual council meeting cost;
 - how much each ordinary council meeting cost;
 - how much each extraordinary/special council meeting cost;
 - the reason(s) for each extraordinary/special council meeting."
4. The council replied the same day requesting that a postal address be provided so that the council could respond formally in writing.
 5. On the same day, the complainant replied informing the council that the email address provided is sufficient to qualify as an 'address for correspondence' under section 8(1)(b) of the FOIA. He offered to assist the council if it had technical problems or difficulties in replying to the request electronically.
 6. Having received no response, the complainant wrote to the council on 10 March 2012 informing it that the request is long overdue and stating that if the matter is not dealt with promptly it may be referred to the Commissioner.
 7. On 17 April 2012, still having receiving no response, the complainant requested an internal review and reminded the council that failure to adequately conduct an internal review may result in referral to the Commissioner in order to obtain an adequate response.

Scope of the case

8. The complainant contacted the Commissioner on 15 June 2012 to complain about the way his request for information had been handled; specifically that he had not received a response. The complaint was closed on 9 August 2012 when the Commissioner wrote to the council

requesting it issue a response within 10 working days. This case was then opened on 5 September 2012 following notification from the complainant that he had still not received a response.

9. The Commissioner considers whether the council have responded to the request in accordance with the FOIA.

Reasons for decision

10. Section 10(1) of the FOIA states that a public authority in receipt of a request for information has a duty to respond within 20 working days.
11. On 9 August 2012, the Commissioner requested that the council issue a response to the complainant within 10 working days. He explained that the council should either provide the information or issue a refusal notice in accordance with the requirements of section 17 of the FOIA and provided links to publically available guidance on refusal notices.
12. In that same correspondence, the Commissioner also informed the council that section 8 of the FOIA outlines the requirements of a valid request for information as follows:

8 Request for information

(1) In this Act any reference to a "request for information" is a reference to such a request which—

- (a) is in writing,
- (b) states the name of the applicant and an address for correspondence, and
- (c) describes the information requested.

and that therefore, to be valid under the FOIA, the request must be in writing and provide a valid name and address for correspondence.

The Commissioner explained that requests could be a letter or email, but can also be made via the web, or even on social networking sites such as Facebook or Twitter if the public authority uses these, and therefore, he identifies requests posted on the website www.whatdotheyknow.com as valid because the website provides an email address for correspondence which meets the requirements of section 8 of the FOIA.

13. The Commissioner contacted the council again on 5 September 2012 and informed it that the complaint has been deemed eligible for formal consideration under section 50 of the FOIA.

14. To date, the council has not provided a response to the complainant. It is clear to the Commissioner that, in this case, the council has failed to respond to the request in accordance with the legislation.

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 1234504

Fax: 0116 249 4253

Email: informationtribunal@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

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
Group Manager
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Wycliffe House
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