

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 30 October 2013

**Public Authority:** **Barlborough Parish Council**  
**Address:** **Barlborough Village Hall**  
**Barlborough**  
**Derbyshire**  
**S43 4ET**

### **Decision (including any steps ordered)**

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1. The complainant made a freedom of information request to the Barlborough Parish Council ("the Council") for a copy of the minutes of its May 2013 meeting. The Council refused the request under the section 21 exemption (information accessible by other means). The Commissioner has investigated the complaint and found that section 21 is engaged.
2. The Commissioner requires no steps to be taken.

### **Request and response**

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3. On 10 June 2013 the complainant made a freedom of information request to the Council for a copy of the minutes of its May 2013 meeting.
4. The Council responded to the request on 5 July 2013 when it informed the complainant that the request was refused under the section 21 exemption as the information was accessible by other means. It explained that the minutes of the council meetings were available for public inspection on the Council Noticeboard and at the Council's Offices.
5. No internal review was offered.

## **Scope of the case**

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6. On 8 July 2013 the complainant contacted the Commissioner to complain about the Council's decision to refuse his request.
7. The Commissioner considers the scope of his investigation to be to decide if the Council was correct to refuse the request by relying on the section 21 exemption.

## **Reasons for decision**

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8. Section 21 of FOIA provides that information is exempt from disclosure if it is reasonably accessible to the applicant by other means.
9. In order for section 21 to apply the information must be accessible to the particular applicant who requested the information. Therefore a public authority will need to take into consideration the particular circumstances of the applicant when deciding to apply the exemption. However, this is not to say that all the specific circumstances of an individual requester can override the test of reasonable accessibility. For example, in cases where information is only available by inspection, it may still be possible to regard this information as being reasonably accessible to all applicants on the basis that it is reasonable that information is only available in a certain location. That is to say, although section 21 allows a public authority to consider the circumstances of the individual applicant, it is important to note that the use of the word "reasonable" qualifies what information can be considered to be "accessible" to the applicant.
10. The Commissioner asked the Council to explain how the information could be accessed by the applicant and why this is considered to be reasonably accessible to him specifically.
11. In response the Council explained that the open items of the Agenda (for council meetings) are available on the Council's public notice board and the minutes are available for inspection by the public for 20 hours per week (4 hours per day Monday to Friday) and again immediately before the Council's Meetings at 7pm on the second Monday in each month. It explained that it was aware of the complainant and his circumstances. It noted that he lived locally, had access to a vehicle and in its view the minutes were reasonably accessible to him specifically.
12. In turn the Commissioner asked the complainant to comment on this and to explain why he believed the information was not reasonably

accessible. In response the complainant said that he was unable to inspect the minutes because:

- The full minutes are not available on the parish notice board, only the agenda
  - The minutes themselves are only available for inspection Monday to Friday 10am to 2am, i.e. during working hours
  - Due to work commitments he was unable to attend the meeting on the second Monday of each month.
13. The complainant also explained that he had a very busy job which meant he spent most of his time away from home. A normal month would, he said "involve me driving around 4,000 miles, foreign travel and many nights in hotels".
14. The Commissioner has considered the arguments of both parties and is of the view that given the small size of the public authority it is reasonable that the information is only available for inspection. The information is available on weekdays but is also available on one evening a month and there is not a great deal more the Council could do to make the information more easily accessible. Even if the Council were to make the information available for inspection from 9am to 5pm Monday to Friday it would appear that this would still not satisfy the complainant. As the Commissioner has explained above the use of the word "reasonable" in the exemption qualifies what information can be considered accessible and in his view the restricted size and resources of the public authority place understandable limits on access to the information. The Commissioner is also mindful of the fact that the complainant is a local resident and despite the difficulties caused by his work commitments it is still reasonable to expect applicants to make the effort to access the information in the manner provided for by the Council.
15. The Commissioner has decided that in all the circumstances of the case the information is reasonably accessible and the section 21 exemption is engaged.

## Right of appeal

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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](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)

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 .....**

**Pamela Clements  
Group Manager, Complaints Resolution  
Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF**