

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

### **Decision notice**

**Date:** 2 July 2015

**Public Authority:** Pennard Community Council

**Address:** pennardcommunitycouncil@gmail.com

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

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1. The complainant requested information about the application of section 14 of the FOIA to previous requests for information he had submitted. The Commissioner's decision is that Pennard Community Council ('the Council') has failed to respond to the request within the statutory time for compliance. This is a breach of section 10 of FOIA.
2. The Commissioner requires the Council to take the following step to ensure compliance with the legislation.
  - Provide the complainant with a response to his request which complies with the requirements of section 1(1) of the FOIA, or issue a valid refusal notice.
3. 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 FOIA and may be dealt with as a contempt of court.

#### **Request and response**

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4. On 5 May 2015, the complainant wrote to the Council and requested information in the following terms:
  - "(1) A copy of the complaint committee's meeting minutes dated 16 March 2015 confirming the names of all councillors and staff who were present at the meeting and involved in the decision-making process (i.e. s14(1) FOIA Notice dated 16 March). If for any

reason no minutes exist, please confirm the names of all persons who were present and involved at the complaints committee meeting;

- (2) A copy of council minutes confirming the Council's decision to establish a complaints committee and meeting on 16 March 2015 to consider FOIA requests;
  - (3) A copy of council minutes confirming the Council's decision to appoint certain persons to a complaints committee to consider FOIA requests on 16 March 2015;
  - (4) A copy of council minutes confirming the Council's decision to either: delegate FOIA decision-making responsibility to the complaints committee; or to issue a s14(1) FOIA Notice following such complaint committee involvement;
  - (5) A copy of the complaint committee's terms of reference, together with copies of all council policies followed in respect of FOIA request decision-making;
  - (6) A copy of council minutes confirming the Council's "*internal review*" Policy decision regarding FOIA requests received and dealt with by the Council;
5. The complainant wrote to the Council on 3 June 2015 regarding its failure to respond to the request.

### **Scope of the case**

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6. The complainant contacted the Commissioner on 11 June 2015 to complain about the way his request for information had been handled. He asked the Commissioner to consider issuing a decision notice in relation to his complaint.
7. On 24 June 2015 the complainant confirmed that he had still not received a response to a request. He asked the Commissioner to issue a decision notice in respect of his complaint.

## Reasons for decision

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### Sections 1 and 10

8. Sections 1 and 10 of the FOIA provide a general right of access to recorded information held by public authorities. These sections provide that when a written request for information is made, the public authority must state whether it holds that recorded information within 20 working days. If it does, it must provide that information within 20 working days unless a valid reason for not doing so exists under the FOIA. If such a reason does exist, a refusal notice should be issued in accordance with section 17 of the FOIA, again within 20 working days.
9. In this case the Council has breached sections 1(1) and 10(1) by failing to respond to the request within 20 working days. At paragraph 2 above the Council is now required to provide a response to the complainant's request of 5 May 2015 in accordance with the provisions of the FOIA. Any response should confirm or deny whether the Council holds the information requested. If the information requested is held the Council should either provide it or issue a refusal notice which complies with the requirements of section 17 of the FOIA.

## Right of appeal

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10. 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: 0870 739 5836

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

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

11. 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.
12. 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 .....**

**Anne Jones**  
**Assistant Commissioner**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**