

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 8 December 2016

Public Authority: Kempsey Parish Council
Address: Community Centre
Parish Office
Main Road
Kempsey
Worcester
WR5 3LQ

Decision (including any steps ordered)

1. The complainant requested documents relating to the parish council taking over the management and tenancy of a community centre from a charity. The council initially refused to respond to the request, but subsequently allowed the complainant to view some information. However the complainant did not consider that the documents which were provided responded to his requests. He then made a second request for copies of these documents as the council refused to provide him with a copy at the time he was able to view them.
2. During the course of the Commissioner investigation the council disclosed all of the information to the complainant. The complainant therefore asked the Commissioner to consider the delay in the council providing him with the information.
3. The Commissioner's decision is that Kempsey Parish Council has failed to comply with section 10(1) of the Act.
4. The Commissioner does not require the council to take any action.

Request and response

5. On 28 January 2016 the complainant wrote to the council and requested information in the following terms:

- a. *"Has legal advice been sought and obtained regarding the current ownership of the assets, particularly the building on the land leased from the council*
 - b. *Does the council therefore know from whom it will be acquiring the premises*
 - c. *Does the council have formal legal advice clarifying whether or not the lessee of the land on which the facility stands has any right of renewal of the now expired lease.*
 - d. *Does the council have any formal business plan supporting its decision to make an offer for the premises and the subsequent expenditure that will be required to implement and manage it.*
 - e. *Has the council yet received written confirmation of the verbal acquisition costs advised to the Council at its December 2015 meeting.*
 - f. *Please provide me with copies of all documentation pertaining to the Council's investigations and actions regarding the above points. "*
6. The council subsequently allowed the complainant to view 3 documents at the council offices on 27 May 2016. The complainant however considered that the documents did not directly respond to his request.
 7. On the same date he therefore wrote to the council stating that the information was not the information that he had requested. Further to this however he made a further request for:

"I confirm my request made at today's meeting for, under the FOI Act, copies of the three documents shown to me. They contain no information of a confidential nature, either personal or commercial, other than signatures and I can accept redaction of them but not of the names."
 8. The council did not respond to this second request as it considered the requests were a misuse of the Act.
 9. However during the course of the Commissioner's investigation, and following her advice as to what the council needed to do in order to comply with the Act the council disclosed all of the information to the complainant on 24 November 2016.

Scope of the case

10. The complainant contacted the Commissioner 19 April 2016 to complain about the way his request for information had been handled. Initially his concern was that the council would not provide the information to him.
11. Following the disclosure of the information to him, the Commissioner asked the complainant if they were willing to withdraw their complaint to the ICO, however the complainant said that he still wanted it recognised that the council had provided him with the information a number of months after he had first made his request.
12. The Commissioner therefore considers that the complaint relates to the delay in the information being provided.

Reasons for decision

Section 10 – time for compliance

13. Section 1 of FOIA provides for a general right of access to information held by public authorities. Section 10(1) provides that a public authority must comply with section 1 promptly and in any event not later than the twentieth working day following the date of receipt of a request for information.
14. In this case the complainant made his request for information on 28 January 2016. He made his second request for information on 27 May 2016.
15. The Council ultimately responded to the complainant providing him with the information which he had requested in both of the above requests on 24 November 2016.
16. As the Council did not comply fully with section 1(1)(b) within the required time period of 20 working days the Commissioner's decision is that the council did not comply with the requirements of section 10(1).

Right of appeal

17. 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
Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

18. 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.
19. 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

Ian Walley
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF