

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 26 June 2018

Public Authority: Great Budworth Parish Council

Address: greatbudworthparishclerk@gmail.com

Decision (including any steps ordered)

1. The complainant has requested a copy of an application to install finials. Great Budworth Parish Council (the council) initially refused the request under section 14(1) of the FOIA as it considered it to be vexatious but later amended its response to 'not held'.
2. The Commissioner's decision is that the council provided its final response outside the required 20 working day timeframe to respond and therefore breached section 10(1) of the FOIA.
3. As the council has responded to the request, the Commissioner does not require it to take any steps.

Request and response

4. On 11 December 2017 the complainant made the following request for information:

"Under the FOIA please also provide me with the PC's application for permission from CWAC to install the finials on the existing 20 mph post/s on High St as required to complete the unfinished 2015 project or to implement the proposed project in the recent PC project priority questionnaire."

5. The council responded on the 12 January 2018 refusing the request under section 14(1) of the FOIA as it considered it to be vexatious.
6. The complainant contacted the Commissioner on the 14 January 2018 disputing the refusal. The Commissioner advised the complainant to request the council to carry out an internal review.

7. The complainant requested an internal review on 19 January 2018 which the council carried out on the 8 February 2018 upholding its initial response.
8. Then on the 17 February 2018, the council contacted the complainant further, amending its response to instead advise that the information requested is not held as no application was made. The council no longer relied on section 14(1) of the FOIA to refuse the request.

Scope of the case

9. The complainant has told the Commissioner that he is not satisfied with the time it has taken the council to issue its final response to him.
10. The Commissioner therefore considers the scope of the case is to determine whether the council has breached section 10(1) of the FOIA – the timeframe to respond to a request.

Reasons for decision

Section 10(1) of the FOIA

11. Section 10(1) of the FOIA states that a public authority needs to comply with section 1 of the FOIA within 20 working days of the FOIA.
12. Section 1 of the FOIA requires a public authority to confirm whether it holds the information within the scope of the request.
13. The request was made on 11 December 2017 and although the council responded initially within the required 20 working days applying section 14(1) of the FOIA to refuse the request, it later amended its response, on 17 February 2018, to instead advise the information is not held.
14. The 17 February 2018 response is taken as the council's final response and was issued outside the required 20 working days. The Commissioner therefore finds that the council has breached section 10(1) of the FOIA.

Right of appeal

15. 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

16. 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.
17. 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