

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 31 May 2019

Public Authority: Mouldsworth Parish Council
Address: Chapel Barnes
Chapel Lane
Mouldsworth
Chester
CH3 8BF

Decision (including any steps ordered)

1. The complainant requested information about costs incurred defending a High Court claim.
2. The Commissioner's decision is that Mouldsworth Parish Council ("the Parish Council") failed to respond to the request within 20 working days and has therefore breached section 10 of the FOIA.
3. The Commissioner requires the Parish Council to take the following steps to ensure compliance with the legislation.
 - Issue a substantive response, under the FOIA, to the request.
4. The Parish Council 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 FOIA and may be dealt with as a contempt of court.

Request and response

5. On 16 February 2019, the complainant wrote to Mouldsworth Parish Council and requested information in the following terms:

"because you omit to include in your published accounts the public monies you spent defending against my 2016 High Court claim namely [reference redacted], I would be grateful if you would

forward on to me a full break down of those costs to include when your council paid them, to whom they were paid, and when they were paid.”

6. The Parish Council did not acknowledge the request and had failed to provide a substantive response by the date of this notice.

Scope of the case

7. The complainant contacted the Commissioner on 21 April 2019 to complain about the failure, by the Parish Council, to respond to the request.
8. In line with her usual practice, the Commissioner contacted the Parish Council on 10 May 2019 to highlight the outstanding response. She requested that the Parish Council respond to the request within 10 working days. The correspondence was neither acknowledged nor responded to.
9. The complainant contacted the Commissioner on 29 May 2019 to request a decision notice considering the Parish Council's compliance with the FOIA.
10. The scope of this notice and the following analysis is to consider whether the Parish Council has complied with section 10 of the FOIA.

Reasons for decision

11. Section 1(1) of the FOIA states that:

Any person making a request for information to a public authority is entitled –

- (a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and*
- (b) if that is the case, to have that information communicated to him.*

12. Section 8(1) of the FOIA states:

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.*
- 13. The Commissioner considers that the request in question fulfilled these criteria and therefore constituted a valid request for recorded information under the FOIA.
- 14. Section 10 of the FOIA states that responses to requests made under the Act must be provided "*promptly and in any event not later than the twentieth working day following the date of receipt.*"
- 15. From the evidence presented to the Commissioner in this case, it is clear that, in failing to issue a response to the request within 20 working days, the Parish Council has breached section 10 of the FOIA.

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: 0870 739 5836

Email: grc@justice.gov.uk

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

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

**Ben Tomes
Team Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF**