

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 2 September 2022

Public Authority: Cottesmore Parish Council

Address: clerk@cottesmoreparishcouncil.org.uk

Decision

1. The complainant requested information from Cottesmore Parish Council ("the Council") relating to a letter discussed during a Parish Council meeting.
2. The Commissioner's decision is that the Council has not correctly applied section 14(1) (vexatious request) of the FOIA to the request.
3. The Commissioner requires the Council to take the following steps to ensure compliance with the legislation.
 - The Council must issue a fresh response to the request which does not rely on section 14(1) of the FOIA
4. The 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 FOIA and may be dealt with as a contempt of court.

Request and response

5. The complainant made the following information request to the Council on 28 March 2022:

"I am a joint tenant of [address redacted].

Please could you send me a copy of the document specified below as coming from Oldham Marsh Page Flavell.

In the minutes of the meeting of the Parish Council held on 18th October 2021, it is recorded at paragraph 115/21 Matters Arising, under the heading Update on Allotments and subheading – access to site through the Jubilee Gardens open space that:

"In view of the letter from Oldham Marsh Page Flavell it was agreed to postpone the discussion of this item until a later meeting."

I look forward to hearing from you."

6. The Council refused to provide the requested information citing section 14(1) (vexatious request) of the FOIA as its basis for doing so.

Reasons for decision

7. This reasoning covers whether the Council has correctly applied section 14(1) to the request.
8. The position of the Council is that they consider the request to be vexatious. The Council explained that the requested information, a letter, is sensitive information. When the contents of this letter were discussed at a recent Parish Council meeting, the members of the local community were and are still irritated by the discussions that took place. Therefore, the Council considers that disclosing the requested information would likely cause a disproportionate level of distress and irritation within the community.
9. The complainant does not consider their request to be vexatious and therefore, they consider that the Council has incorrectly applied section 14(1) of the FOIA to their request.
10. The Commissioner would like to highlight that the purpose of section 14(1) of the the FOIA is to enable a public authority to refuse to comply with a request if the nature of that request is vexatious. A public authority can apply section 14(1) of the FOIA to a request if complying

with the request would cause the public authority a disproportionate or unjustified level of disruption, irritation or distress. It cannot be applied to a request to prevent the disclosure of information that would be damaging.

11. In this case, the Council has not applied section 14(1) to the request on the basis that the request would cause the Council a disproportionate or unjustified level of disruption, distress or irritation. The Council has cited section 14(1) apparently for the purpose of preventing the disclosure of information which it considers would distress and irritate the local community. This is not the purpose of section 14(1) of the FOIA.
12. The Commissioner's decision is that the request is not vexatious and therefore, the Council has not correctly applied section 14(1) of the FOIA to the request.
13. The Commissioner requires the Council to provide the complainant with a fresh response to their request which does not rely on section 14(1) of the FOIA.

Right of appeal

14. 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

15. 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.
16. 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
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF