

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 9 January 2023

Public Authority: Kirby Muxloe Parish Council
Address: Station Road
Kirby Muxloe
Leicester
LE9 2EN

Decision (including any steps ordered)

1. The complainant requested information from Kirby Muxloe Parish Council ("the Council"). By the date of this notice the Council had not issued a substantive response to this request.
2. The Commissioner's decision is that the Council has breached section 10(1) of FOIA in that it failed to provide a valid response to the request within the statutory time frame of 20 working days.
3. The Commissioner requires the Council to take the following step to ensure compliance with the legislation.
 - the Council must provide a substantive response to the request in accordance with its obligations under FOIA.
4. 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 FOIA and may be dealt with as a contempt of court.

Request and response

5. On 26 August 2022, the complainant wrote to the Council and requested information in the following terms:

"1. Is [redacted] one and the same person as that acting for [redacted] and signing letters as [redacted], in the capacity of 'data

processing consultants' to the council? I contend that everyone at KMpc must be immediately aware of this information, albeit that it may only be recorded separately in meeting minutes and in tendering or contractor records. A simple Yes or No answer would suffice.

2. Is [redacted] a bona-fide company and, as such, registered at Companies House? This should be a simple Yes or No answer. I am not suggesting that KMpc's records will replicate those at Companies House, but before KMpc makes a financial commitment to engage the services of an external contractor, some due diligence is necessary and a basic initial step would be to ascertain if the potential contract is with a proper and legal company. If Yes, what is the company's Registration number? This number, if it really exists, should be shown on Contract records and on [redacted] invoices, etc, both of which are likely to be in KMpc's records.

3. Is [redacted] listed as a Director of this company? Again, this is a Yes or No answer. This information is likely to be recorded on most, perhaps all, documents (eg, invoices, contracts, proposals, etc), as provided by [redacted] and retained in KMpc's records.

4. What information does KMpc hold that records the contractual arrangements (eg, tendering, duty, scope, deliverables, fees, etc) between KMpc and [redacted]? This specific contract (like all such contracts) should have been discussed, resolved and recorded in the council's meeting minutes, but I can't find it anywhere. Which page number(s) of the meeting minutes record the specific details of this contract?

5. What specific total fee was payable by KMpc to [redacted] for this company's work for the council, with regard to case IC-74092-L9B6 only? I ask because I cannot see where this fee is published on the council's website; it should be published, as declared expenditure. Expenditure of public money must be transparent and this money must also be properly safeguarded – to act otherwise indicates deficient Governance. Was the fee a fixed lump sum or was it calculated at an hourly rate?"

6. To date, a substantive response has not been issued.

Scope of the case

7. The complainant contacted the Commissioner on 28 September 2022 to complain about the Council's failure to respond to their request.
8. The Commissioner has considered whether the Council has complied with its obligations in relation to the time for compliance at section 10(1) of FOIA.

Reasons for decision

9. Section 1(1) of 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."
10. Section 10(1) of FOIA states that a public authority must respond to a request promptly and "not later than the twentieth working day following the date of receipt".
11. On 28 November 2022 the Commissioner wrote to the Council, reminding it of its responsibilities and asking it to provide a substantive response to the complainant's request within 10 working days.
12. Despite this intervention the Council has failed to respond to the complainant.
13. From the evidence provided to the Commissioner in this case, it is clear that the Council did not deal with the request for information in accordance with FOIA. The Commissioner finds that the Council has breached section 10(1) by failing to respond to the request within 20 working days and it is now required to respond to the request in accordance with 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: 0203 936 8963

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

Michael Lea
Team Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF