

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 9 February 2023

Public Authority: Hopton and Coton Parish Council
Address: Hopton and Coton Village Hall
Wilmore Hill Lane
Hopton
Staffordshire
ST18 0AW

Decision (including any steps ordered)

1. The complainant requested a copy of a recording of a Councillor meeting. By the date of this notice Hopton and Coton Parish Council (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 15 November 2022, the complainant wrote to the Council and requested information in the following terms:

"Whilst I have absolutely no issue with recording (some may say I like the sound of my own voice) can you confirm ,as it seems the PC have the recording, that the council has recorded the meeting last week, I do not

recall any notification to all in attendance that the meeting was to be recorded.

Under the Freedom Of Information Act I formally request that you make this recording available to me.

As a council you should revisit your standing orders, you should, out of respect to all attending, ask if anyone from the public is recording and advise if the council is recording. I recall pre becoming a councilor Ann Elkin advising her right to record a meeting, it is therefore obviously not Alien to councilors about protocol on this matter.

A memory stick will be made available by myself to the council should you need for the purpose of providing me with a copy of recording, I ask this this is provided to me in twenty working days so by 13th December 2022, I will of course personally pay in, advance if needed, for any reordered postage cost the council may incur should this be your method of delivery."

6. The Council failed to acknowledge the request. To date, a substantive response has not been issued.

Scope of the case

7. The complainant contacted the Commissioner on 21 December 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 17 January 2023 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
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