

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 7 March 2024

Public Authority: Dodderhill Parish Council

Address: foi@dodderhillparishcouncil.co.uk

Decision (including any steps ordered)

1. The complainant has requested various information relating to council decisions and about councillors training and interests from Dodderhill Parish Council ("the council"). The council withheld the information, applying section 14 of FOIA (vexatious requests).
2. During the Commissioner's investigation, the council withdrew its reliance upon section 14 of FOIA. The Commissioner has therefore decided that the council has not complied with the requirements of section 1 of FOIA, nor the requirements of section 10 of FOIA. He therefore requires the council to take the following steps to ensure compliance with the legislation.
 - To respond to the complainant again as required by section 1 of FOIA, without relying upon section 14.
3. The public authority 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 Act and may be dealt with as a contempt of court.

Request and response

4. On 30 June 2023, the complainant wrote to the council and requested information in the following terms:

"At the Parish Council Meeting of Dodderhill on 20th June 2023 the Chairman read out a report in which was stated "pleased to report that we have three committees up and running with dedicated

Councillors and terms of reference. We need to hire a locum Meetings Clerk for meeting to happen and Chairs to be appointed."

I have studied in-depth the minutes of the 16th May 2023, and 14th June 2023 and can find no evidence of the Finance Committee, Staffing Committee and/or IT Committee membership being the subject to date, of the required vote to ratify appointments.

- 1. Please can you confirm the date of the individual votes to select Councillors for each committee*
- 2. If the vote took place why the documented evidence of the recorded vote has not been published when Dodderhill Parish Council Standing Orders clearly stated at the time, all votes taken at the Parish Council Meeting should be recorded.*
- 3. At the meeting the Chairman stated a recorded vote was unnecessary and time consuming and took advice from the clerk who confirmed there was a requirement for votes to be recorded, why was this advice then ignored.*

The minutes state:

Finance Committee – [name of councillors redacted by ICO]

IT Committee – [name of councillors redacted by ICO].

Staffing Committee – [name of councillors redacted by ICO]

For each of the above named Councillors please can you supply the following:

- Copy of their Register of Interests*
- Copy of their Council Training Records*
- In respect to the Staffing Committee, details of any HR/Employment Law experience / training.*

Please can you supply the name of the author(s) of the following documents

- IT Committee Terms of Reference*
- Staffing Committee Terms of Reference.*

- *Finance Committee Terms of Reference.*

In respect of the "IT Committee"

- *[name of councillor redacted by ICO] has noted on his register of interest in that he works for an Gentrack-UK, could you confirm if this is the Software Development Company?*
- *If it is the Software Development Company, please can it be explained as to how this is not considered a Pecuniary Interest and /or a Commercial in Confidence conflict.*

Voting

With reference to the Chairman's report on the 20th June 2023. the chairman stated " a request from an absent Councillor re voting tonight: No. Councillors who are not present do not get a say in the meeting (CALC) just worth saying so we don't set a precedent.

Please can it be confirmed:

- 1. Who made the decision of "No"*
- 2. Please could you supply details of the correspondence associated to guidance supplied.*
- 3. According to the legislation and the solicitor, it is every Councillors right to request a recorded vote, irrelevant of whether the Councillor is present or not. Requesting a recorded vote is not "having a say in a meeting" and in line with Dodderhill Parish Council's new Standing Orders requested before the vote takes place is part of. Please could you confirm on what grounds this statement / decision is lawful.*

Calc

Please can you supply all details, (including telephone communications) and documentation (electronic or other) from any member of the Dodderhill Parish Council (both from their Council and/or personal email accounts) with CALC or CALC employees, freelance support or associates used by CALC concerning any Parish Council business, from the 4th May 2023 to the 30th June 2023 inclusive.

Resident's Association

Please can you list which servings parish councillors are members of and/or attend meeting of Wychbold Association For Residents."

5. The council responded on 28 July 2023. It applied section 14 of FOIA to refuse to respond to the request (vexatious requests). It said that this was due to the burden which would be placed on the council in responding to the request.
6. The complainant asked the council to carry out an internal review on 7 August 2023. He also asked the council to provide him with a breakdown of its calculations explaining how the parish council estimated that responding to the request would exceed the threshold of £450.
7. The council did not respond to the request for review.

Scope of the case

8. The complainant initially contacted the Commissioner on 7 September 2023 to complain about the way their request for information had been handled. The complainant provided the information necessary for the Commissioner to begin investigating the complaint on 10 October 2023.
9. During the course of the Commissioner's investigation, the council told the Commissioner that it had not received a copy of the request for review. It said that this may have been due to the former clerk leaving the council. It said that it does not have access to the former clerk's correspondence to check this point.
10. Also, during the course of the Commissioner's investigation, the council indicated to the Commissioner that it would now respond to the complainant's request for information. The council therefore withdrew its reliance upon section 14 of FOIA to refuse the request.
11. The Commissioner therefore considers that the scope of the following decision notice is to determine whether the council has complied with the requirements of section 1 (general right of access to information), and section 10 of FOIA (time for compliance).

Reasons for decision

Section 1 – General right of access to information

12. Under section 1(1) of FOIA, and subject to any exemptions being applicable, anyone who requests information from a public authority is entitled under subsection (a) to be told if the authority holds the information and, under subsection (b), to have the information communicated to them if it is held and is not exempt information.

13. Therefore, subject to any exclusions or exemptions applying, section 1 of FOIA requires that a public authority discloses any information it holds to the complainant within 20 working days.
14. Section 14 acts as an exclusion to the requirement to comply with a request for information if the request is vexatious. The council has now withdrawn its reliance upon section 14.
15. As it is no longer relying upon section 14, the Commissioner therefore requires the council to respond to the complainant's request for information as required by section 1 of FOIA, without relying upon section 14.
16. The Commissioner also notes that in initially relying upon section 14, which it which it has now withdrawn, the council failed to respond to the request within 20 working days following date of receipt of the request, as required by section 10 of FOIA. The Commissioner has therefore decided that the council has not complied with the requirements of section 10 of FOIA in this instance.

Other matters

17. The Commissioner wishes to remind the council that the FOIA provides a right of access to 'recorded' information. Whilst there will be situations where the council is able to respond to a request by providing an answer to the questions asked, in cases where a request clearly seeks detailed information, the council should consider what documents (e.g., emails, reports, meeting minutes, etc.) it holds that contains such information for disclosure.
18. The Commissioner also reminds the council that, under FOIA, where a requester contacts an authority expressing dissatisfaction with the council's response to their request, it is good practice to provide an 'internal review' where it can reconsider its earlier response, and if necessary, revise it.
19. The Commissioner refers the council to his published guidance on internal reviews. This guidance can be read here:
<https://ico.org.uk/for-organisations/foi-eir-and-access-to-information/guide-to-freedom-of-information/refusing-a-request/#20>.

Right of appeal

20. 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

21. 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.
22. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Ian Walley
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