

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 18 April 2024

**Public Authority:** Colyford Parish Council  
**Address:** clerk@colyford-pc.gov.uk

#### **Decision (including any steps ordered)**

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1. The complainant requested information held by Colyford Parish Council (the parish council) relating to its "headline figure of salary".
2. The Commissioner's decision is that the parish council has failed to comply with section 16(1) of FOIA - advice and assistance. This is because the request did not have a single objective reading, and the parish council failed to seek clarification of the request under section 1(3) of FOIA.
3. The Commissioner requires the parish council to take the following steps to ensure compliance with the legislation.
  - Comply with section 16 of the FOIA by seeking clarification of the complainant's request of 17 October 2023, set out within paragraph 18 of this decision notice. Once clarification has been received, the parish council must respond to the complainant in accordance with FOIA.
4. The parish council must take these steps within 30 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**

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5. By way of background, on 19 September 2023, the complainant made a request to the parish council for information which included all "expenditures, including any salary/wages) and income since the inception of Colyford Village Council."
6. The parish council responded on the 25 October 2023, providing a copy of its expenditure and income. However, it advised that salary payments are exempt from disclosure, citing section 40(2) of the FOIA – third party personal data.
7. The complainant requested an internal review on 17 October 2023. Within their correspondence they submitted what the Commissioner considers to be a new "refined" request, for information. It is the handling of this request, which is set out below, which is the subject of this decision notice:

"Could you please send a headline figure of salary paid since inception of the parish council please."
8. The parish council provided its internal review response on the 25 October 2023. It stated that it will be publishing all figures required on its annual accounting statement, and maintained the position set out in its response of 25 October 2023, that salary payments are exempt from disclosure under section 40(2) of FOIA.

## **Scope of the case**

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9. The complainant contacted the Commissioner, disputing the council's decision to refuse to provide information in response to their new refined request of 17 October 2023.
10. The Commissioner, having considered the particular circumstances of this case, considers it appropriate to decide whether the parish council has complied with its responsibilities under section 16 of the FOIA.
11. If necessary, the Commissioner will then go on to consider whether the parish council is entitled to rely on section 40(2) of FOIA as its basis for refusing the request, as claimed.

## Reasons for decision

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12. Section 16 of the FOIA states:

- (1) "It shall be the duty of a public authority to provide advice and assistance, so far as it would be reasonable to expect the authority to do so, to persons who propose to make, or have made, requests for information to it."

13. When a public authority receives an unclear or ambiguous request, it has a duty under section 16 to provide advice and assistance and it must go back to the requester under section 1(3) of FOIA to ask for clarification.

14. The complainant has advised the Commissioner that the 'headline figure of salary' will be released by the parish council when the accounting statement is published.

15. The Commissioner has queried this with the parish council. It has responded explaining that it is required to publish an Annual Governance and Accountability Return (AGAR) by the 1 July, of each year.

16. The parish council has told the Commissioner that section 2 of the AGAR includes reporting 'total staff costs' where it publishes a total figure, but not a breakdown of salary information.

17. The Commissioner has found two pieces of guidance<sup>1</sup> online for filling out the AGAR. From reviewing them, he has found the requirements for publishing 'total staff costs' has very specific criteria (see paragraph 2.15 of the 'file nalc.gov.uk' guidance), and it also sets out that there is a timeframe for the information to be made available for any interested party to inspect. However, he has found no reference to the term "headline figure of salary" and what elements of salary costs would, or would not, be included within such a definition.

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<sup>1</sup> [AGAR: The Annual Governance and Accountability Return Made Easy \(scribeaccounts.com\)](https://www.scribeaccounts.com/AGAR-The-Annual-Governance-and-Accountability-Return-Made-Easy)

[file \(nalc.gov.uk\)](https://www.nalc.gov.uk)

18. After consideration of all of the information available, it is the Commissioner's view that the terminology used by the complainant's request is open to ambiguity, and does not have a single objective reading.
19. Therefore, the Commissioner considers that the parish council should have relied on section 1(3) of the FOIA in order to seek clarification from the complainant as to what they meant by 'headline figure of salary'. This is to determine exactly what the complainant was seeking before going on to decide whether the information sought was exempt or not.
20. The Commissioner therefore finds that the parish council has breached section 16 of the FOIA by not providing advice and assistance to the complainant to determine exactly what they required when asking for "headline figure of salary paid."
21. As the Commissioner has found that there is no one objective reading of the request, and that the parish council should have sought further clarification from the complainant about what they required, the Commissioner is unable to go on to consider whether section 40(2) of the FOIA is engaged in this case.
22. The Commissioner requires the parish council to comply with the steps in part 3 of this decision notice, above.

## Right of appeal

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23. 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](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

24. 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.
25. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

**Suzanne McKay**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**