

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 5 December 2012

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

Decision (including any steps ordered)

1. The complainant has requested copies of minutes. Whilst receipt of the request was acknowledged no substantive response to the request has been provided to the complainant. The Information Commissioner's decision is that Kirby Muxloe Parish Council did not deal with the request for information in accordance with FOIA. It breached section 10(1) of FOIA by failing to provide a response to the request within the statutory timeframe of 20 working days.
2. The Information Commissioner requires the public authority to take the following steps to ensure compliance with the legislation:
 - confirm or deny whether the requested information is held in respect of the request, to comply with section 1(1)(a);
 - if information is held in respect of the request, either provide the information to comply with section 1(1)(b) (addressing the complainant's request for the response to be provided in electronic form), or withhold the information by issuing a valid refusal notice under section 17(1) of FOIA.
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. The complainant initially wrote to Kirby Muxloe Parish Council (the 'Council') on 13 April 2012 asking about HR support and its remit for the Council and questions about a poll. The Council responded on 20 April 2012.

5. On 28 April 2012, the complainant wrote to the Council and requested information in the following terms:

"Thank you for confirming the details of the poll to be held on the 14 May.

The references that you make to approvals of appointments in December and February appear to relate to meetings whose minutes are neither on the website, nor held in the Kirby Muxloe Library. Are you in a position to let me have copies of the relevant minutes – if necessary with redactions?"

6. The Council responded on 3 May 2012 as follows:

"The Clerk should be able to supply copies of the relevant minutes and I will ask her to provide copies.

To avoid any misunderstanding, the Council is not relying solely on HR advice, except for HR related matters.

The full council will make its decision as a corporate entity, in relation to complying with an investigation as demanded by the Poll, which of course is a different matter."

7. To date, the Council has not provided the complainant with copies of the requested minutes or issued a refusal notice to explain why the information cannot be disclosed.

Scope of the case

8. The complainant then contacted the Information Commissioner to complain about the way her request for information had been handled. She specifically asked the Information Commissioner to consider the fact that no substantive response had been provided.

9. The Information Commissioner initially wrote to the Council on 3 August 2012 asking it to provide a response to the request within 10 working days. No response was provided.

10. The Information Commissioner wrote again to the Council on 11 September 2012 to confirm that the complaint about the lack of response had been accepted. Although the Council forwarded copies of late responses to two other requests submitted by the complainant, the Information Commissioner is satisfied that neither of these responses deals with the request of 28 April 2012.
11. On 21 November 2012 the Information Commissioner contacted the complainant to ascertain whether she had received a substantive response to her request. She confirmed that she had not.

Reasons for decision

12. Section 8(1) of FOIA states that requests for information should be in writing, should bear the name of the applicant, an address for correspondence, and describe the information requested. The Information Commissioner considers that the request in this case can be defined as such and therefore constituted a valid request under FOIA for recorded information.
13. Section 10(1) of FOIA states that on receipt of a request for information a public authority should respond to the applicant within 20 working days. Whilst section 17(3)(b) provides that an extension of time in order to consider the balance of the public interest is permissible where a public authority has determined within 20 working days that a qualified exemption is engaged, the Information Commissioner's approach is that such an extension should be for a maximum of a further 20 working days. In this case the time taken to provide a substantive response has clearly been far beyond what could be considered reasonable.
14. From the information provided to the Information Commissioner it is evident that the Council did not respond to the complainant within the statutory timeframe.

Conclusion

15. The Information Commissioner's decision is that the Council did not deal with the request for information in accordance with FOIA. It breached section 10(1) of FOIA by failing to provide a response to the request within the statutory timeframe of 20 working days.

Right of appeal

16. 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: 0116 249 4253

Email: informationtribunal@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

17. 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.
18. 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

Jon Manners
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