

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

### **Decision notice**

**Date:** 23 February 2015

**Public Authority:** Llanfachraeth Community Council

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

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1. The complainant requested minutes and agendas for a number of Council meetings, and a copy of a report produced by an external auditor. Llanfachraeth Community Council ('the Council') disclosed some information and stated that it did not hold other information. The Commissioner's decision is that the Council breached section 10 of the Freedom of Information Act by disclosing some information later than 20 working days after receiving the request. However, the Commissioner is satisfied that the Council has now provided all of the information it holds regarding the request. He does not require any steps to be taken.

#### **Request and response**

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2. On 27 January 2014, the complainant contacted the Council and, in reference to the minutes of a Council meeting on 25 June 2013, requested information in the following terms:

"You state in para 3 (co-options) "Permission was given by Election Department of the County Council to do so".

Please could you send me a copy of this.

As you have not published the following

1. Minutes for ALL meetings Sept, Oct & Nov 2013
2. Agendas for Sept, Oct, Nov 2013
3. The auditors reports

Could you please send me a copy of these"

3. The Council responded on 22 February 2014. It explained that the permission given to the Council by the Election Department of the County Council (as referred to in the minutes of the meeting on 25 June 2013) was provided verbally, and as such it did not hold any written information relating to the permission granted. The Council confirmed that minutes were only held in Welsh and provided copies of the minutes requested. The Council stated that it did not hold copies of the agendas for the meetings in question, however it stated that "the agendas....are exactly what you see on the minutes the following month". The Council also provided a copy of what it stated was the auditor's report.
4. The complainant wrote back to the Council on 24 March 2014. He stated that he had requested a copy of the auditor's report itself and the Council had only provided a copy of the covering letter to the report. The complainant returned the copies of minutes he had received in Welsh and said that he considered that the Council had an obligation to hold the minutes in English as well as Welsh and asked for copies of the minutes in both languages.
5. The Council wrote to the complainant on 29 April 2014 and stated that "I enclose the requested minutes for Sept, Oct, Nov (3.12.14) 2014 [*sic*]".

### **Scope of the case**

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6. The complainant contacted the Commissioner on 5 May 2014 to complain about the way his request for information had been handled.
7. After contacting the complainant, the Commissioner established that the complainant remained dissatisfied with the Council's handling of the request for the minutes of a Council meeting in November 2013, and for a copy of the auditor's report.
8. During the course of the Commissioner's investigation, the Council disclosed a copy of the auditor's report.
9. In light of the above, the scope of the Commissioner's investigation is to consider the Council's handling of parts 1 and 3 of the request.

### **Reasons for decision**

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#### **Part 1 of the request – Council minutes**

10. On 22 February 2014, the Council supplied the complainant with Welsh copies of the minutes of meetings held between September and

December 2013. On 24 March 2014, the complainant wrote back to the Council and requested the minutes in English. He also stated that copies of the minutes of the meeting held in November 2013 had been omitted from the Council's original response.

11. During his investigation, the Council informed the Commissioner that there was no scheduled meeting for November 2013. However, it had held an extraordinary meeting on 26 November 2013 (the '26 November meeting') for the purposes of electing new members to the Council. The Commissioner advised the Council that he considered the minutes of the 26 November meeting to fall within the scope of the request. He asked the Council to either disclose the information or indicate which exemption(s) it considered applicable.
12. During the course of his investigation, the complainant advised that he had received copies of the 26 November meeting minutes in English. However, he queried the provenance of the minutes as they were unsigned and unnumbered. The complainant also stated that the English minutes of the 26 November meeting appeared to be a redacted version of the Welsh version of the minutes of the same meeting.
13. The Commissioner has no power to investigate the legitimacy of Council documents, and therefore he has not considered the issue of the documents being unsigned and unnumbered.
14. The Commissioner queried the discrepancy between the English and Welsh versions of the minutes of the 26 November meeting with the Council. The Council confirmed that its normal policy was to record the minutes of all meetings in Welsh and at the time of the request, all of the minutes requested were only held in Welsh. As such, the only signed copy of the minutes of the November meeting held by the Council was in Welsh, and these were provided to the complainant. However, the Council advised that it had subsequently created and disclosed an English version of the minutes of the 26 November meeting in an attempt to be helpful to the complainant.
15. The FOIA does not require a public authority to create new information in order to respond to a request for information. Section 11 of the FOIA requires a public authority to provide information in the manner requested, where it is reasonably practical to do so. However, whilst a requester might ask for information to be translated into a particular language, a public authority has no duty to do this under section 11. The preferences to which it has to give effect in section 11(1) do not include translations. It may have a statutory obligation to do so under other legislation apart from the FOIA, but the Commissioner has no regulatory role in this.

16. The Commissioner understands the concerns expressed by the complainant to be that the English version of the 26 November meeting minutes differ from the Welsh version in that the English version contains less information. However, in light of the fact that the Council was under no obligation under the FOIA to create the English version in order to respond to the request for information, the Commissioner is unable to investigate this issue.
17. Based on the representations provided by the Council, the Commissioner is satisfied that, at the time of the request, it only held the minutes of the meetings in question in Welsh. The Welsh minutes were provided to the complainant but in failing to provide this information within 20 working days of receipt of the request, the Council breached section 10 of the FOIA.

### **Part 3 of the request - the auditor's report**

18. Although the Council stated that it had disclosed the auditor's report in its letter to the complainant dated 22 February 2014, the complainant later confirmed that he had only received the covering letter and not the report itself.
19. During the course of the Commissioner's investigation, the Council disclosed a copy of the auditor's report to the complainant, who confirmed receipt of the information.

### **Summary**

20. The Commissioner is satisfied that the Council has complied with its obligations under section 1 of the FOIA and has disclosed all the information it holds relevant to the request. However, in failing to provide the information requested within the statutory time for compliance, the Council breached section 10(1) of the FOIA.

### **Other matters**

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21. It became apparent during the Commissioner's investigation that the Council has limited knowledge of its obligations under the FOIA and this played a significant part in its handling of the complainant's requests. The Commissioner would recommend that the Council reminds itself of its obligations under the FOIA to ensure that any future requests are handled in accordance with the provisions of the FOIA.

## Right of appeal

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22. 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@hmcts.gsi.gov.uk](mailto:GRC@hmcts.gsi.gov.uk)

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

23. 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.
24. 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 .....**

**Anne Jones**  
**Assistant Commissioner**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**