

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 4 June 2018

**Public Authority:** Hextable Parish Council  
**Address:** Heritage Centre  
College Road  
Swanley  
Kent  
BR8 7LT

#### Decision (including any steps ordered)

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1. The complainant requested information relating to the council's accounts. He requested copies of bank statements, a copy of a payments and receipts list and copies of bills received by the council relating to a statement made in the parish newsletter that legal bills had amounted to £23,000.
2. The council initially said that the complainant could only inspect copies of the bank statements rather than be provided with copies. It disclosed a copy of the payments and receipt list but the complainant asked for it to be provided in a different format as he said it was unreadable. The council initially refused to provide this. The council also did not initially respond to the request for copies of the legal bills other than to try to provide an explanation for the costs it had quoted.
3. During the course of the Commissioner's investigation the council disclosed the bank statements and provided the payments and receipts list in a different format. The Commissioner has therefore only considered the time which the council took to disclose this information to the complainant. The council also provided some copies of legal bills which relate to the £23,000, however, it argued that the remainder were held in its archive and that it would exceed the appropriate limit for it to locate and provide this to him. It therefore applied section 12 to the request.

4. The Commissioner's decision is that the council has correctly applied section 12 to the information. She has however decided that the council did not comply with the requirements of section 10(1) of the Act in that it did not provide copies of the bank statements within 20 working days.
  - The Commissioner does not require the council to take any steps.

## Request and response

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5. On 30 May 2017, the complainant wrote to council and requested information in the following terms:

*"Re your announcement of the 26<sup>th</sup> May 2017, can you send me the Hextable Parish Council Payments and receipts list from March 2016-end of March 2017 plus copies of statements for both bank Accounts [sic].*

*Please can you send to my email address the listings, to avoid your office having to copy the pages?*

*If this cannot be done, can you arrange to post this information as soon as possible to ensure we meet the deadline for inspection."*

6. On 16 June 2017 the council wrote to the complainant. It advised him that it had previously considered his requests to be vexatious, but said that it would consider his request for information if he clarified the scope of his request.
7. On 20 June 2017 the complainant clarified that although his requests could be seen to be for the same information, they were not repeated as they were for financial information over a number of years. Each request was for the financial information for that particular financial year.
8. On the same day the council responded. It repeated its position. On 21 June 2017 however it responded to other, more specific requests made by the complainant regarding payments made by the council.
9. On 22 June 2017 the complainant wrote to the council stating:

*"I will respond on this shortly, but in the meantime can you please confirm when the last paragraph of my letter dd 20th June will be actioned,*

*With this in mind, I am again writing to respectfully request the payments and receipts list from the Scribe system for the financial year 2016-2017 so that I can review this year's return."*

10. On 26 June the council wrote to the complainant and advised him that the bank statements could be inspected at the council's offices. It said that these would amount to over 100 pages and therefore it was not suitable for copies to be sent to him. The complainant responded on the same date stating that he did not wish to visit council offices to inspect the documents and again expressed his wish for copies to be sent to him.
11. The council responded on 29 June 2017. It provided the complainant with a copy of its payments and receipt list but redacted information relating to salaries.
12. At that point the complainant made another request for specific detailed information from the information which the council had provided in its payments and receipts list. He also requested from the council:

*"In your Autumn newsletter no 31 2016 you state £23,000.00 in excess has been spent on legal fees, from the payments lists since 2014-2015 I can only account for one payment dd 15<sup>th</sup> Jan 2015 for £2000 to the to a solicitor, please can you now forward me all the bills to the solicitor for legal fees on the scout hut, to reconcile your statement in your newsletter."*

13. On 4 July 2017 the complainant wrote to the council and reiterated that he did not wish to visit council offices to inspect the bank statements and that he wished to have copies sent to him. He also complained that the list provided to him was not understandable. He said that:

*"I am missing payment list from 1<sup>st</sup> April 2016 - 24<sup>th</sup> April 2016, not supplied, and can you confirm which items redacted, as I cannot see any on your list any redacted, and if so, why are items redacted from a public list, please clarify how many items, amounts and explanation of each redacted items? Or how was this redaction performed from the Scribe system? Can you rerun the payments list again in date order from 1<sup>st</sup> April 2016 to 31<sup>st</sup> March 2017 as payment list is not in correct format and is confusing. I will pay for these extra copies, no more than 15 pages as your list without the 1<sup>st</sup> -24 April 2016 is only 13 pages."*

14. He explained that he did not wish to visit the council offices due to the circumstances [relating to a previous visit]. The council responded reiterating that bank statements were only available to inspect from the council office and said that it could not provide him with copies of these.
15. As regards the request made on 29 June 2017 it simply said that any reference to the newsletter article needed to be taken up with the editor of the newsletter, not the Clerk.

16. On 6 July 2017 the complainant wrote to the council. He said that:

*"I will need copies of the bank statements, it would be best if you did this, so you can redact any staff salary payments only.*

*Please can you respond on refusal of request below under section 17 of FOI act, and also under the council accounts, a guide to your rights, if my request is to be denied yet again."*

17. On 12 July 2017 the council wrote to the complainant. It said that it had provided him with a redacted copy of the payments and receipts list and had offered for him to carry out an inspection of its bank statements in the council offices. It said that it was not able to provide the complainant with copies of the bank statements and that he should therefore accept the offer to inspect them.

18. Further to this it stated as regards the £23,000 legal fees that *"With regards to the legal fees you have questioned, the £23,000 is an accumulated sum over approximately 10 years and is outside the scope of this enquiry"*. It did not however provide any further information as regards this, nor respond to his specific request for the bills to the solicitor.

19. Following the intervention of the Commissioner the council wrote to the complainant again on September 2017 providing an internal review of its decisions. It reiterated that it had answered all of the complainant's questions, had provided him with copies of the payments and receipts list in a readable format and that it had offered the complainant the opportunity to visit its offices to view the bank statements. It therefore said that it had done everything it could to respond to the request and it was the complainant's choice not to take the opportunity to make an appointment to view the bank statements. It did not mention the request for details of the £23,000 legal fees.

## **Scope of the case**

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20. The complainant contacted the Commissioner 13 July 2017 to complain about the way his request for information had been handled. His central complaint was that the council had not disclosed copies of the bank statements to him. He reiterated that he does not wish to visit the council's office to view these due to the circumstances (which he described).

21. He also complained that the council refused to provide him with a further copy of its payments and receipt list which he argues was provided in a format which he is unable to understand.
22. On 20 March 2018, during the course of the Commissioner's investigation, the council disclosed the bank statements, and re-printed the payments and receipt sheets in order that the complainant could more easily understand them. It also provided him with some information regarding his requests for solicitor's bills regarding the £23,000 legal fees. It stated however that it was unable to provide him with further information regarding this as it would exceed the appropriate limit for it to do so. It therefore applied section 12 to this part of the request.
23. The Commissioner therefore asked the complainant if he was content with the council's response. The complainant said that he believed further information could be provided to him regarding the £23,000 legal fees without exceeding the appropriate limit. He did not make a further complaint regarding either the bank statements or the reformatted payments and receipt sheets.
24. Given this the Commissioner has only found it necessary to consider the council's application of section 12 to the information on the £23,000 legal fees. She has not found it necessary to consider the application of any further exemptions to the requests for copies of the bank statements or to the request for the payments and receipts list, other than to consider the time which the council took to respond to the remainder of the request.
25. The Commissioner therefore considers that the complaint is that the council has not responded to the complainant's request for information relating to the £23,000 legal fees as required by the Act. She has also considered the time which the council took to provide copies of the banks statements and the printed copies of the payments and receipt sheets to the complainant.

## **Reasons for decision**

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### **Section 12**

26. The complainant argues that the council has failed to provide him with the majority of the information relating to the figure of £23,000. He requested a copy of *"all the bills to the solicitor for legal fees on the scout hut, to reconcile your statement in your newsletter"*. He disputes that responding to the request would exceed the appropriate limit.

27. The council argues that it has already spent in excess of 20 hours responding to the other parts of the complainant's request, including photocopying copies of the bank statements, responding to questions and collating and providing the payments and receipts list twice in order that the complainant could read this information. It said that providing the further information requested would in itself exceed the appropriate limit
28. The exemption in section 12 of the Act can be claimed by local authorities where the work involved in responding to a request would exceed £450 (charged at a standard £25 per hour) or it would exceed 18 hours work. The limits are set higher for central government departments. The Commissioner notes that this section is applicable to exclude a public authority from the requirement to respond to a request where the limit is exceeded.
29. Having said this, under section 16 of the Act the public authority is under a duty to provide advice and assistance to the requestor to try to agree a suitable narrowing of the request in order that a response can be provided within the appropriate limit if that is possible.
30. The fees regulations provide guidance as to what time can be taken into account when estimating the time it will take to respond to a request. The following tasks can be taken into account when considering this estimate:
  - (a) determining whether the authority holds the information,
  - (b) locating a document containing the information,
  - (c) retrieving a document containing the information, and
  - (d) extracting the information from a document containing it.
31. Any time taken to consider whether information is exempt and needs to be redacted from a document cannot be taken into account, although as noted above, the time taken to extract the information from a document can be.
32. The Commissioner asked the council to provide further information on how it had estimated that responding further to the request would exceed 18 hours.
33. The council explained that the background to the request goes back approximately 10 years, and relates to a legal dispute it has been involved in with a local scout group over a licence to use the village

hall/scout hut. Effectively the fees were spent over that period as the legal dispute moved forward. They relate to a number of different aspects of the dispute, and over this period a number of different solicitors provided advice to the council, including advice provided by solicitors at the county council. It said that solicitors also paid a chartered surveyor and other parties on behalf of the council.

34. It said that given the length of time over which this dispute has run it does not now know how much relevant information has been retained within its archive. It said that *"Invoices and documents going back later than approximately 7 years have been archived and are not stored in the parish office files but in a community storage space in the Heritage Centre. To spend the time trying to locate the details, if this was even possible, for all the invoices of expenditure relating to the legal dispute would certainly exceed twenty hours as it covers a huge number of documents, a number of years, a number of parties and stored in different places"*.
35. The council said that the figure of £23,000 was based upon an estimate, taking into account figures it had drawn together in the spring of 2015, but admitted that even with that, it may not have taken the entire costs into account. It said, however, that no parties had disputed the figure quoted in the newsletter. The newsletter was written by a member of the council who confirmed the basis of the figure to the Commissioner. She said that the £23,000 figure quoted in the newsletter was not part of a detailed financial statement and that it was not intended to deal specifically with the parish finances; it was meant to give an indication and an explanation of the dispute and the amount of money that had been spent over the years relating to the issue. It did not therefore take into account all of the information which would be caught within the scope of the complainant's request.
36. The council believes that some of the invoices will be held manually and some, more recent documents, will be held on computer. The clerk has had two different computer accounting systems over the period. It also confirmed that the accounting system changed in 2012 so only manual records are held prior to 2012.
37. The council said that it is not able to confirm if all of the relevant early documents from 2008 - 2011 are still held.
38. It said that the archive room has a large number of boxes of various documents for each year, not just financial documents. It said it is not able to specifically search for relevant information within the archive in relation specifically in relation to this request as the files are not held within a filing system which would allow this. It said that in order to

identify all of the relevant information every document for every relevant year would need to be checked in order to determine whether they fall within the scope of the complainant's request.

### Conclusions

39. The Commissioner has considered the council's response. She notes that the council has sought to answer the complainant's requests where it has been able to obtain and copy the information and provide it to him. She also notes that the £23,000 figure was an estimate only, and even at the time that the figure was first published in a newsletter in 2015 the council considers that it was unlikely that it took into account the entire costs of the issue which the council had faced.
40. Where the council's records have been archived the council argues that it is not able to locate and provide that information to the complainant within the 18 hours. Where information was held at the parish offices the council has provided this to the complainant.
41. In order to be able to locate the information the council would need to search through each file for the year for each relevant year, read each individual item and check whether it was relevant to the request or not as it has no easy way to distinguish relevant information from other information it holds within its archive.
42. The council also does not know the full extent of the information it would need to find in order to fully comply with the request. It would therefore need to search through all of its documents to determine whether they are relevant or not.
43. The council recognised that its records management systems were not ideal. It said however that this is partially because the parish council was formed in 2008 and there was a lot of work setting up systems etc while running the new council in temporary accommodation and it took a while to settle into an organised office.
44. The question for the Commissioner is not whether the council could respond to the request within the appropriate limit if its records management were better. The question is whether it would exceed the appropriate limit to respond to this request in actuality.
45. Given the issues described by the council the Commissioner has decided that the council was correct to apply section 12 to this request.
46. The Commissioner has not therefore found it necessary to consider whether the costs or time of responding to the other requests made by the complainant within the same period of time can be aggregated with this request.

### Section 16

47. Section 16 of the Act provides that:

*"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."*

48. The Commissioner expects that where a request for information exceeds the appropriate limit a public authority will work with the complainant to try to narrow the scope of the request to a point where the information can be provided.

49. In this case the council provided the complainant with the information it held in its office. It did not offer the complainant the chance to narrow the scope of his request. However given the circumstances of the case the Commissioner is satisfied that this was the only approach available for the council to take. It could not feasibly narrow the request substantially as it would face the same issue with providing any information from the archive. It would need to search through each relevant document for the relevant year, without knowing how much information it held which fell within the scope of the request.

50. The Commissioner has decided therefore that the council complied with the requirements of section 16 in its response to the complainant.

### Section 10

51. Section 10(1) of the Act provides that:

*'Subject to subsections (2) and (3), a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt.'*

52. The complainant made his request on 30 May 2017, but the council did not disclose copies of the bank statements (in their entirety) until 30 March 2018.

53. Accordingly, the Commissioner finds that, in failing to provide copies of the information within 20 working days the council breached the requirements of section 10(1).

## Right of appeal

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54. 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)

55. 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.
56. 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** .....

**Andrew White**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
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