

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 1 October 2024

Public Authority: Wennington Parish Council
Address: Greenfoot
Lodge Lane
Wennington
Lancaster
LA2 8NW

Decision (including any steps ordered)

1. The complainant requested information from Wennington Parish Council ("the Council") relating to the sale of land.
2. The Commissioner's decision is that the Council is entitled to rely on section 12(1) (cost limit) of FOIA to refuse to comply with the request. He also finds that the Council complied with its obligations under section 16(1) of FOIA to offer advice and assistance.
3. The Commissioner does not require the Council to take any steps.

Request and response

4. On 8 January 2024, the complainant wrote to the Council and requested information in the following terms:

"I would, therefore, like to make the following request under the Freedom of Information Act 2000.

Please can the Parish Council provide me with:

- All the correspondence (i.e. emails and written letters) to and from the Parish council which relates to the sale of common land. In particular, this should include:

- All the legal advice received by the parish council from its solicitor, and elsewhere, that makes reference to the sale of land.
 - All the correspondence/emails to and from you (as the proper officer to the council) and the parish councillors that makes reference to the sale of land.
 - All the correspondence/emails between parish councillors that makes reference to the sale of land.”
5. The Council responded on 2 February 2024 and refused to provide the requested information citing section 12 (cost limit) of FOIA as its basis for doing so.
6. On the same date, the complainant submitted the following refined request for information to the Council:
- “So, my reframed request is as follows; please can you provide:
1. All the legal advice received (written letters/emails) by the parish council from its solicitor, and elsewhere, that makes reference to the sale of common land from September 2022 to the present date.
 2. All the correspondence/emails to and from you (as the proper officer to the council) and the parish councillors that makes reference to the sale of common land from September 2023 (when you were appointed) to the present date.
 3. All the correspondence/emails between parish councillors that makes reference to the sale of common land from September 2022 to the present date.”
7. The Council responded on 1 March 2024 and refused to provide the requested information citing section 12 (cost limit) of FOIA as its basis for doing so.
8. On 3 March 2024, the complainant requested an internal review. The Council provided the complainant with the outcome of its internal review on 7 June 2024 in which it maintained its position.

Reasons for decision

Section 12(1) – cost of compliance

9. This reasoning covers whether the Council is entitled to rely on section 12(1) of FOIA to refuse to comply with the request.
10. Section 12(1) of FOIA states that a public authority is not obliged to comply with a request for information if the authority estimates that the cost of complying with the request would exceed the appropriate cost limit. The appropriate limit for public authorities such as the Council is £450. As the cost of complying with a request must be calculated at the rate of £25 per hour, section 12(1) effectively imposes a time limit of 18 hours for the Council.
11. A public authority can only take into account the costs it reasonably expects to incur in carrying out the following permitted activities in complying with the request:
 - determining whether the information is held,
 - locating the information, or a document containing it,
 - retrieving the information, or a document containing it, and
 - extracting the information from a document containing it.
12. A public authority does not have to make a precise calculation of the costs of complying with a request; instead, only an estimate is required. However, it must be a reasonable estimate. In accordance with the First-Tier Tribunal decision in the case of *Randall v IC & Medicines and Healthcare Products Regulatory Agency EA/20017/00041*, the Commissioner considers that any estimate must be “sensible, realistic and supported by cogent evidence”. The task for the Commissioner in a section 12 matter is to determine whether the public authority made a reasonable estimate of the cost of complying with the request.

The Council’s position

13. In its submissions to the Commissioner, the Council explained that in order to provide the requested information it would need to search its paper records for information within the scope of the request. It estimates that this would take approximately three hours. The Council stated that it would also need to search the email accounts of the Parish Clerk and four Parish Councillors for information within the scope of the request.

14. The Council explained that, following receipt of the complainant's internal review request, it conducted a search of one Parish Councillor's email account using relevant search terms such as 'sale of land' and 'common land'. This search located 860 emails that potentially fall within the scope of the request. Based on this search, the Council estimates that if it were to search the email accounts of the four Parish Councillors and the Parish Clerk, in total it would need to review over 2500 emails in order to provide the requested information.
15. The Council estimates that it would take approximately five minutes to review each email and determine whether it falls within the scope of the request as many of the emails are likely to have attachments. Therefore, it calculated that in total it would take 208 hours to review all 2500 emails (2500 emails x 5 minutes = 208 hours).
16. During the course of the Commissioner's investigation, the Council carried out searches of the Parish Clerk's email account using the search terms 'land' and 'first registration'. These searches located 1412 emails dating from between September 2022 and 2 February 2024 that may fall within the scope of the request.

The Commissioner's position

17. Based on the explanations provided by the Council, the Commissioner is not convinced that the Council would need to review 2500 emails in order to provide the requested information. However, he accepts that it would be necessary for the Council to review the 1412 emails held in the Parish Clerk's email account.
18. The Commissioner does not consider the Council's estimate of 5 minutes to review each email and determine whether it falls within the scope of the request to be reasonable. However, he recognises that even if the Council were to take only 1 minute to review each email held in the Parish Clerk's email account, the cost of complying with the request would exceed the appropriate limit (1412 emails x 1 minute = 23.5 hours).
19. Furthermore, the Commissioner acknowledges that in order to provide the requested information the Council would also need to search the email accounts of four Parish Councillors for information within the scope of the request, and conduct relevant searches of its paper records. These searches would take the cost of complying with the request further over the appropriate limit.
20. The Commissioner's decision is that the Council estimated reasonably that the cost of complying with the request would exceed the

appropriate limit. Therefore, the Council is entitled to rely on section 12(1) of the FOIA to refuse to comply with the entirety of the request.

Section 16 – advice and assistance

21. Section 16(1) of FOIA provides that a public authority should give advice and assistance to any person making an information request. Section 16(2) clarifies that, providing an authority conforms to the recommendations as to good practice contained within the section 45 code of practice¹ in providing advice and assistance, it will have complied with section 16(1).
22. In its initial response to the request on 1 March 2024, the Council advised the complainant that they could refine the scope of the request by reducing the time period of the request, or by narrowing the subject matter of the request.
23. The Commissioner considers that this was an appropriate response in the circumstances. He is therefore satisfied that the Council met its obligations under section 16(1) of FOIA.

¹ <https://www.gov.uk/government/publications/freedom-of-information-code-of-practice>

Right of appeal

24. 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

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

Joanne Edwards
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF