

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 1 May 2018

Public Authority: Thorne-Moorends Town Council
Address: Assembly Rooms
Field Side
Thorne
DN8 4AE

Decision (including any steps ordered)

1. The complainant has requested information about costs relating to the local Neighbourhood Plan.
2. The Commissioner's decision is that Thorne-Moorends Town Council breached sections 1(1) and 10(1) of the FOIA by failing to provide a valid response to the request within the statutory 20 working day time limit.
3. The Commissioner requires Thorne-Moorends Town Council to take the following steps to ensure compliance with the legislation:
 - issue a response to the request in accordance with its obligations under the FOIA.
4. Thorne-Moorends Town Council 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

5. On 9 February 2018, the complainant wrote to Thorne-Moorends Town Council ("the Council") and requested information in the following terms:

"Breakdown of total costs of the Thorne Moorends Neighbourhood Plan/Draft Plan ie including costs of the following: -

1. Total cost of Informal Consultation.

2. Total cost of Formal Public Consultation: March/April 2014 including the name of the Printer used.

3. Total cost of Formal Public Consultation: Consultation on Policy Areas October 2014 including the name of the Printer used.

4. Total Cost of Planning Consultants fees including the names of the Planning Consultants employed.

5. Total cost of Character Appraisal and Design Policy used and name of the Company used.

6. Total cost of Printing of the Thorne Moorends Neighbourhood Draft Plan including the name of the printer used.

7. Details of any other costs not mentioned above which also contributed to the total cost of the Thorne Moorends Neighbourhood Plan of thirty eight thousand, nine hundred and fifty five pounds and 55 pence."

6. Having received no response she sent an email, requesting one, on 12 March 2018.

7. The Council replied the same day, stating:

"I can assure you that I am in no way trying to avoid providing the information requested. The demands of Freedom of Information are not easily met when you are on a limited hour contract.

I personally do not have the historical knowledge to answer your request without detailed and time consuming work Likewise, there is not the specific knowledge available within the office. The Neighbourhood Plan was dealt with by [name redacted] who retired in March 2017

To make progress could I suggest that we arrange to meet in the office so that i can become more familiar with your query. It may be

necessary to refer your request to councillors who may be more familiar with the Thorne Neighbourhood Plan."

8. The complainant wrote to the Council on 13 March 2018, expressing dissatisfaction with this response, and referring it to its obligations under the FOIA. The Council responded the same day, saying that the matter had now been referred to the Town Mayor.
9. The complainant did not subsequently receive a response to her request.

Scope of the case

10. The complainant contacted the Commissioner on 14 March 2018 to complain about the Council's failure to respond to her request in accordance with the requirements of the FOIA.
11. The Commissioner wrote to the Council on 10 April 2018, referring it to its obligations under the FOIA and asking it to respond to the request dated 9 February 2018, by 24 April 2018.
12. The complainant has confirmed that, as of the date of this notice, no substantive response to the request has been received, and the Commissioner has received no correspondence from the Council about the request.

Reasons for decision

Section 1 – general right of access

Section 10 – time for compliance

13. Section 1(1) of the FOIA states that an individual who asks for information is entitled to be informed whether the information is held and, if the information is held, to have that information communicated to them.

14. Section 10(1) of the FOIA states that:

"... 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".

15. The complainant requested information on 9 February 2018. Although the Council replied to her chaser on 12 March 2018, the Commissioner considers that the response did not comply with section 1(1) of the FOIA in that it failed to inform the complainant whether it held the requested information and, if it was held, to communicate it to the complainant. The Commissioner also finds that the Council has breached section 10(1) of the FOIA by failing to provide a valid response within 20 working days of receiving the request.
16. As well as issuing this notice, the Commissioner has made a separate record of the failure by the Council to respond to the complainant's request within the 20 working day time for compliance. This issue may be revisited should evidence from other cases suggest that this is necessary.

Right of appeal

17. 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

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

18. 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.
19. 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

Samantha Bracegirdle
Senior Case Officer
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Wycliffe House
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Cheshire
SK9 5AF