

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 7 December 2018

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

Decision (including any steps ordered)

1. The complainant requested information from Kirby Muxloe Parish Council (the Council) in relation to a councillors' audit report.
2. The Commissioner's decision is that the Council has breached section 10(1) of the FOIA in that it failed to provide a valid response to the request within the statutory time frame of 20 working days.
3. The Commissioner requires the Council to take the following step to ensure compliance with the legislation.
 - Respond to the complainant's request in accordance with the FOIA.
4. The Council must take this step 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 28 March 2018, following a correspondence with the Council, the complainant requested information in the following terms:

"I appreciate your courtesy in responding today to my e-mail of 21 February.

May I request a full copy of the councillors' audit report to which you refer, together with the briefing to the councillors concerned."

6. The Council did not acknowledge the request and had failed to provide a substantive response by the date of this notice.

Scope of the case

7. The complainant contacted the Commissioner on 25 June 2018 to complain about the failure by the Council to respond to his request.
8. The Commissioner has considered whether the Council has complied with its obligations in relation to the time for compliance at section 10(1) of the FOIA.

Reasons for decision

9. Section 1(1) of the FOIA states that:

Any person making a request for information to a public authority is entitled –

- (a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and*
- (b) if that is the case, to have that information communicated to him.*

10. Section 10(1) of the FOIA states that a public authority must respond to a request promptly and *"not later than the twentieth working day following the date of receipt."*
11. On 13 July 2018, the Commissioner wrote to the Council, reminding it of its responsibilities and asking it to provide a substantive response to the complainant within 10 working days.
12. On 23 November 2018, the complainant confirmed that no response had been issued by the Council in the meantime.
13. The Commissioner wrote to the Council on 26 November 2018 to confirm whether the complainant's assertion was correct.
14. Despite this intervention the Council has failed to respond to the complainant.

15. From the evidence provided to the Commissioner in this case, it is clear that the Council did not deal with the request for information in accordance with the FOIA. The Commissioner finds that the Council has breached section 10(1) by failing to respond to the request within 20 working days and it is now required to respond to the request in accordance with the FOIA.

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: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk

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

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

Ben Tomes
Team Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF