

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 3 May 2019

Public Authority: Irby upon Humber Parish Council

Address: Church Farm
Church Street
North Kelsey
Market Rasen
LN7 6EQ

Decision (including any steps ordered)

1. The complainant requested a copy of Irby upon Humber Parish Council's Child / Young Person and Vulnerable Adult Protection Policy as well as any adoption date of the policy. The complainant asked in the event that the Parish Council did not hold such a document, that it provided them with information relating to safety and protection of children, young people and vulnerable adults using Parish Council Services.
2. The Commissioner's decision is that Irby upon Humber Parish Council (the Parish 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 Parish Council to take the following steps to ensure compliance with the legislation.
 - Irby upon Humber Parish Council must issue a substantive response to the request in accordance with its obligations under the FOIA.
4. Irby upon Humber Parish 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 18 December 2018, the complainant wrote to Irby Upon Humber Parish Council and requested information in the following terms:

"I would be most grateful if the Parish Council could provide me with a complete copy of their Child/Young Person and Vulnerable Adult Protection Policy or similar policy, including any relevant background papers.

If the Parish Council hold this information then please also provide me the adoption date of the policy together with review dates.

If the Parish Council do not hold this information then I would be most grateful if they could inform me as to how their organisation provide children, young people and vulnerable adults with appropriate safety and protection whilst using their services or engaging with elected members, staff and volunteers - for example, vetting by means of obtaining checks using the Disclosure & Barring Service (DBS).

Thank you for your cooperation and I look forward to receiving this information within 20 working days."

6. Irby upon Humber Parish Council acknowledged the request on 18 December 2018.
7. Irby upon Humber Parish Council responded on 25 January 2019. It requested more details about the complainant, who they were and why they were asking for the information.

Scope of the case

8. The complainant contacted the Commissioner on 27 February 2019 to complain about the failure by the Parish Council to respond to his information request.
9. On the 19 March 2019, the Commissioner wrote to Irby upon Humber Parish Council, asking it to respond within 10 working days.
10. On 20 March 2019, Irby upon Humber Parish Council replied to the Commissioner stating that as the complainant had not supplied further identification details, they would not supply the requested information.
11. On 27 March 2019, the Commissioner responded to Irby upon Humber Parish Council, stating that a response under the FOIA should be

applicant and purpose blind and requested that a proper response should be issued to the complainant by 02 April 2019.

12. On 03 April 2019, the complainant contacted the Commissioner to state that there had been no reply forthcoming from Irby upon Humber Parish Council.
13. The Commissioner considers the scope of the case to be whether Irby upon Humber Parish Council has complied with its obligations in relation to the time for compliance under section 10(1) of the FOIA.

Reasons for decision

14. 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."

15. Section 8(1) of the FOIA states:

In this Act any reference to a "request for information" is a reference to such a request which –

(a) is in writing,

(b) states the name of the applicant and an address for correspondence, and

(c) describes the information requested.

16. The Commissioner considers that the request in question fulfilled these criteria and therefore constituted a valid request for recorded information under the FOIA.
17. Section 10 of the FOIA states that responses to requests made under the Act must be provided *"promptly and in any event not later than the twentieth working day following the date of receipt."*
18. From the evidence presented to the Commissioner in this case, it is clear that, in failing to issue a response to the request within 20 working days, Irby upon Humber Parish Council has breached Section 10 of the FOIA.

Other matters

19. As referred to above, the Parish Council sought from the complainant further details about him and his motivation for requesting the information sought. The Parish Council should be aware that once a requester has given their real name, it is not appropriate to seek further information about them or the reason why they are requesting information.
20. For further information about the FOIA and how to comply with it, the Parish Council should see ico.org.uk.

Right of appeal

21. 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@justice.gov.uk

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

22. 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.
23. 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