

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: **7 October 2021**

Public Authority: **Irby Upon Humber Parish Council**
clerk.irbyparish@gmail.com

Decision (including any steps ordered)

1. The complainant requested various information from Irby Upon Humber Parish Council (the 'Council') relating to a public interest report, financial records, and Council policy and procedures. The Council had failed to provide a substantive response to the complainant by the date of this notice.
2. The Commissioner's decision is that the Council failed to respond to the request within 20 working days and has therefore breached section 10 of the FOIA.
3. The Commissioner requires the Council to take the following steps to ensure compliance with the legislation.
 - Issue a substantive response, under the FOIA, to the request.
4. The 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 FOIA and may be dealt with as a contempt of court.

Request and response

5. On 16 July 2021, the complainant wrote to the Council and requested information in the following terms:

"Dear Irby upon Humber Parish Council

On 31 March 2021, the external auditor (PKF Littlejohn LLP) produced a public interest report in respect of the Parish Council's failure to submit an Annual Governance and Accountability Return (AGAR) for the year ending 31 March 2020. The auditor provided a copy of the report to your organisation and it essentially points out the failure by the Parish Council in their statutory duties to account to taxpayers for the use and safeguarding of their money, and what the Parish Council should do next to remedy the failure. However, as of 13 July 2021 the auditor has also noted that the Parish Council have not yet published an approved version of the AGAR for the year ending 31 March 2020.

The auditor also attached a document to the report which contains extracts of Schedule 7 of the Local Audit and Accountability Act 2014. This information states the relevant authority must consider the public interest report at a meeting held before the end of the period of one month beginning on the day it was sent to the authority. The meeting must be publicised by a notice on the authority's website. At the meeting the authority must decide whether the report requires them to take any action, and what, if any, action to take in response to it. Additionally, as soon as practicable after making their decisions, the authority must notify the auditor of and publish a notice containing a summary of those decisions which has been approved by the auditor. This information must also be publicised by a notice on the authority's website.

Consequently, I would be grateful if the Parish Council could provide me with full and complete copies of the following information:

- The Parish Council's decision and rationale to disregard the requirement to publish a notice of the meeting on their website.*
- The Parish Council's decision(s) and rationale relating to their intended action in response to the public interest report.*
- The Parish Council's decision and rationale to disregard the requirement to publish a notice containing a summary of the decision(s) on their website.*

- *The Parish Council's decision and rationale to disregard the requirement to publish an approved version of the AGAR for the year ending 31 March 2020.*
- *Details of costs incurred (i.e. auditor fees, advice and guidance expenditure etc.) by the Parish Council in all matter associated with the public interest report.*
- *All correspondence received from and sent to the auditor since 1 April 2020.*

Additionally, I would also be grateful if the Parish Council could provide me with full and complete copies of the following information:

- *Bank Reconciliation and Variances as of 31 March 2020 and 31 March 2021*
- *Annual Governance Statement 2019/20 and 2020/21*
- *Annual Internal Audit Report 2019/20 and 2020/21 Information request 1 of 2*
- *Accounting Statements 2019/20 and 2020/21*
- *Notice of Exercise of Public Rights 2019/20 and 2020/21*
- *Parish Council Budget 2019/2020 and 2020/21*
- *Items of Expenditure in Excess of £100 2019/20 and 2020/21*
- *Parish Council Financial Regulations 2019/20 and 2020/21*
- *Risk Management Policy and Document Control Procedures 2019/20 and 2020/21*
- *Parish Council Fixed Asset Register 2019/20 and 2020/21*

Thank you and I look forward to receiving the requested information within 20 working days."

6. The Council failed to provide a substantive response to the complainant by the date of this notice.

Scope of the case

7. The complainant contacted the Commissioner on 17 August 2021 to complain about the failure, by the Council, to respond to the request.

8. In line with her usual practice, the Commissioner contacted the Council on 16 September 2021 to highlight the outstanding response. She requested that the Council respond to the request within 10 working days or by 30 September 2021.
9. It is noted that the Council sent an email to the Commissioner dated 28 September 2021 providing some limited information but it did not respond to the complainant. On 4 October 2021, the Commissioner spoke to the Chair of the Council and encouraged the Council to respond directly and substantively to the complainant.
10. Despite this intervention the Council has failed to respond to the complainant.
11. The scope of this notice and the following analysis is to consider whether the Council has complied with section 10 of the FOIA.

Reasons for decision

12. 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.*

13. 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.*"
14. 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, the Council has breached section 10 of the FOIA and it is now required to respond to the request in accordance with the FOIA.

Right of appeal

15. 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

16. 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.
17. 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

Michael Lea
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