

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 27 March 2013

**Public Authority:** Prestatyn Town Council  
**Address:** 7 Ffordd Llys Nant  
Prestatyn  
LL19 9LR

#### **Decision (including any steps ordered)**

---

1. The complainant requested information about tenders submitted to Prestatyn Town Council ('the Council'). The Council disclosed some information but withheld other information under section 43 of the FOIA. During the course of the Commissioner's investigation the Council withdrew its reliance on section 43 of the FOIA and disclosed all information held relevant to the request. The Commissioner's decision is that the Council breached section 10 of the FOIA in failing to provide the requested information within the statutory time for compliance. The Commissioner requires no steps to be taken.

#### **Request and response**

---

2. On 25 April 2012, the complainant wrote to Council and requested information in the following terms:

"Under the Freedom of Information Act and or Environmental Act. Please could I request a .pdf copy of the named 'contract schedule.' Relating to Item 219 page 126, Town Development Committee, Wednesday 7th March 2012.

I'm presuming the 'contract schedule' relates to all tenders submitted. But just in case. Could a .pdf copy of the winning tender/s from Sherratt Landscapes Ltd be supplied please.

Could it be named whom was attending the opening (councillor/s)and at what time please.

Could I also request the name of councillor Chairing the meeting. Councillors present, councillors absent and councillors giving apologies. Could it also be stated which meeting this was ratified at, with Councillor chairing meeting, Councillors present, councillors absent and councillors giving apologies”.

3. The Council responded on 2 May 2012 and provided some information relevant to the tenders and contract schedule, but withheld other information under section 43 of the FOIA. In relation to the names of Councillors present, absent and who gave apologies the Council stated that the information was available to view at Prestatyn Library and Town Council Offices, and as such it was relying on section 21 of the FOIA. In relation to the minutes of the meeting in question, the Council advised that the minutes had been submitted to the Full Council Meeting on 18 April 2012 and would be published in due course. As such it was relying on section 22 of the FOIA in relation to this information.
4. On 13 May 2012 the complainant requested an internal review of the Council’s handling of the request. She stated that she believed that the disclosure of the redacted contract schedule contravened section 40 of the FOIA as the names of the companies who had tendered was shown. She said that she believed all information that could have identified the companies should have been redacted as opposed to the details of the tenders for each company. She also asked the Council to review its decision regarding the withholding of details of the tenders supplied by each company.
5. The Council provided the outcome of its internal review on 9 August 2012 and upheld its decision that it had responded appropriately to the request under the provisions of the FOIA. The Council indicated that section 40 of the FOIA related to personal data and not “commercial business interests”.

### **Scope of the case**

---

6. The complainant contacted the Commissioner on 19 September 2012 to complain about the way her request for information had been handled. She asked the Commissioner to consider whether the information which the Council had withheld under section 43 should be provided.
7. During the course of the Commissioner’s investigation, the Council withdrew its reliance on section 43 of the FOIA and disclosed all the information falling within the scope of the request.

8. The Commissioner contacted the complainant and asked her if she wished to withdraw her complaint in the light of the full disclosure of the requested information. The complainant stated that she was not prepared to withdraw her complaint and wished the Commissioner to issue a formal decision notice in recognition of the delays experienced.
9. The scope of this case, therefore, is to consider whether the Council complied with the requirements of section 10 of the FOIA and also the time taken to issue the internal review.

## **Reasons for decision**

---

### **Section 10(1) – time for compliance**

10. Section 10(1) of the FOIA requires that a public authority complies with section 1(1) promptly and in any event not later than 20 working days following the date that a request was received. Section 1(1) states that a public authority should confirm whether it holds relevant recorded information and, if so, to communicate that information to the applicant.
11. The request was made on 25 April 2012. The Council disclosed some information relevant to the request on 2 May 2012 and withheld other information under section 43 of the FOIA. During the course of the Commissioner's investigation the Council withdrew its reliance on section 43 and disclosed the remaining information held in March 2013. In failing to provide this information within 20 working days of receipt the request, the Council breached section 10(1) of the FOIA.

## **Other matters**

---

### **Internal Review**

12. Although they do not form part of this decision notice the Commissioner wishes to highlight the following matters of concern:
13. Whilst there is no explicit timescale laid down by the FOIA for completion of internal reviews, the Commissioner considers that they should be completed as promptly as possible. The Commissioner believes that a reasonable time for completing an internal review is 20 working days from the date of the request for review. In exceptional circumstances it may be reasonable to take longer but in no case should the time taken exceed 40 working days.

14. The Commissioner is concerned that in this case, it took around 60 working days for an internal review to be completed. The Commissioner does not believe that any exceptional circumstances existed to justify that delay, and he therefore wishes to register his view that the Council fell short of the standards of good practice by failing to complete its internal review within a reasonable timescale. He would like to take this opportunity to remind the Council of the expected standards in this regard and recommends that it aims to complete its future reviews within the Commissioner's standard timescale of 20 working days.

## 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: 0300 1234504

Fax: 0116 249 4253

Email: [informationtribunal@hmcts.gsi.gov.uk](mailto:informationtribunal@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm](http://www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm)

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 .....**

**Anne Jones**  
**Assistant Commissioner**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**