

**Freedom of Information Act 2000 (FOIA)
Environmental Information Regulations 2004 (EIR)**

Decision notice

Date: 30 January 2014

Public Authority: Keighley Town Council

Address: Town Hall
Bow Street
Keighley
West Yorkshire
BD21 3PA

Decision (including any steps ordered)

1. The complainant has requested a copy of an agreed licence which council minutes referred to in 2010. The council provided a copy of a licence to the complainant however sections for the date and for the signatory had been blacked out as if redacted. The complainant wrote back to the authority and said that he understood that the licence was in fact only draft, and that it seemed clear from the licence provided to him that the blacked out sections did not in fact redact any information. He therefore asked the council to confirm whether the licence which had been sent to him was the agreed licence, and whether the blacked out sections redacted any information from the licence. The council did not however respond to him. Following the Commissioner contacting the council it then responded to the complainant confirming the copy was a draft and that no information had been redacted from the document on 16 January 2014.
2. The Commissioner's decision is that the complainant's request to explain the redacted sections of the document was a request for review requiring the council to respond under Regulation 11(1). The council's failure to respond to that request within 40 working days is a breach of Regulation 11(4). However as the council then responded to the complainant on 17 January 2014 the council had complied with the requirements of the Regulations at that point.

3. The Commissioner does not require the council to take any steps.

Request and response

4. On 17 June 2013, the complainant wrote to Keighley Town Council and requested information in the following terms:

"I would like to make a Freedom of Information Request in relation to the following.

MINUTES OF A MEETING OF THE FINANCE COMMITTEE OF KEIGHLEY TOWN COUNCIL HELD IN THE BRIGG ROOM, TOWN HALL, KEIGHLEY ON WEDNESDAY 25 AUGUST 2010

2010/83 (F) SPECIAL PROJECTS UPDATE

"The licence for the covenant has been agreed at £1,000 under budget, to come into effect from 01/01/2011. The licensing procedure would need to be reviewed every three years.

I would like to attain a copy of this license agreed in 2010."

5. The council responded on 18 June 2013 providing a copy of the licence.
6. The complainant wrote back to the council on 8 July 2013. He said that he understood from a third party that no licence had been agreed between the council and landowner. He said that the copy of the agreement he had been sent appeared to be a draft copy of a licence, and that he was concerned that the dates had been redacted when the finance committee hearing had indicated that the licence would commence on 1 January 2011. He was also concerned as the area where the signatures should be contained had been blacked out, yet on closer inspection it appeared as if there were no signatures actually contained underneath the blacked out area. Close inspection under magnification showed the dotted lines where signatures should have been placed but there appeared to be no actual signatures. He said:

"If no agreement had been reached, and therefore no legally binding licence was in place, why was I not informed that this was the actual situation?"

If you interpret that I had asked for a copy of the license, and a draft copy is what you sent, why the redacting of something which does not appear to be there, and one would not expect to be there on a draft copy?"

The complainant did not receive a response from the council to this and therefore made a complaint to the Commissioner.

Scope of the case

7. The complainant contacted the Commissioner on 20 June 2013 to complain about the way his request for information had been handled.
8. He said that the council had not responded to his request for review. He also raised other issues which are not section 50 complaints.
9. The Commissioner considers that the complainant's main complaint is that the council did not respond to his request for review and answer the questions he had asked of it.
10. The Commissioner has addressed the other aspects of the complainant's complaint in an email he wrote to the complainant on 6 January 2014. These were not section 50 complaints.
11. The Commissioner wrote to the council on 16 January 2014 asking the council to reconsider its position and to confirm whether it had responded to the complainant. In a subsequent telephone call the Commissioner explained that in order to comply with the Regulations the council was obliged to carry out a review and respond within 40 working days as required by Regulation 11(4). It appeared to him that the council had not done so.
12. The council therefore agreed to respond to the complainant and wrote to him that day. It confirmed to the complainant that no information had been redacted from the licence and that the black marks had been introduced in order to prevent any misuse of the document by any third party. It also confirmed that the agreement is still in draft and that the council is working to it until the Legal Department has finalised a document which all parties are '*willing and able to sign*'.
13. In line with the Commissioner's policy outlined at http://ico.org.uk/foikb/FOIPolicyIssuingaDNinrelationtoinformationalread_ydisclosed.htm the Commissioner has therefore taken into account the fact that the council responded to the complainant on 16 January 2014 in his decision notice, providing him with its response to his questions.

Reasons for decision

14. Section 11(1) of the Regulations states that:

11. - (1) *Subject to paragraph (2), an applicant may make representations to a public authority in relation to the applicant's request for environmental information if it appears to the applicant that the authority has failed to comply with a requirement of these Regulations in relation to the request.*

15. Section 11(4) of the Regulations states that:

11. - (4) *A public authority shall notify the applicant of its decision under paragraph (3) as soon as possible and no later than 40 working days after the date of receipt of the representations.*

16. The complainant made his request for review to the council on 8 July 2013. The council did not respond to his request until 16 January 2014. This falls outside of the 40 working days required by the Regulations.

17. The Commissioner is therefore satisfied that the council failed to respond to the complainant within the time stipulated by Regulation 11(4).

18. Given that the complainant's request has now been responded to however the Commissioner has included no steps in this decision notice.

Right of appeal

19. 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: GRC@hmcts.gsi.gov.uk

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

20. 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.
21. 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

Andrew White
Group Manager – Complaints Resolution
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF