

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 26 March 2014

Public Authority: Goring Parish Council
Address: Old Jubilee Fire Station
Red Cross Road
Goring
Reading
RG8 9HG

Decision (including any steps ordered)

1. The complainant has requested correspondence between Goring Parish Council ("the Council") and its external auditor since 2006.
2. The Commissioner's decision is that the Council has breached section 10 of the FOIA by providing the requested information outside of the time for compliance.
3. The Commissioner does not require the Council to take any further action in respect of this complaint.

Request and response

4. On 13 October 2013, the complainant wrote to Goring Parish Council requested the following information:

"All correspondence with the Council's external auditor since 26 June 2006."

5. The Council responded on 7 November 2013. It stated that:

"Regarding your request for copies of our correspondence with the external auditor I would remind you that the auditor is currently reviewing the concerns you have raised and as an independent authority the auditor's decision will be binding. The auditor as you appreciate is appointed by the government and given that the auditor has not found

any reason to complain about any delays or said the Council has overlooked any items it would seem unnecessary to provide you with this information at this time.”

6. On 20 November 2013 the complainant wrote to the Council to complain about its response to his information request. He complained that the Council’s response does not comply with the requirements of the Freedom of Information Act (“the FOIA”) and asked that the response is reviewed.
7. The Council acknowledged the complainant’s request for an internal review on 20 November 2013 and on 21 November it informed the complainant that his request of 13 October was considered to be vexatious.
8. On 18 December 2013 the Council completed its internal review and wrote to the complainant. The Council provided the complainant with all of the correspondence he seeks together with a schedule of that correspondence. The schedule identified three pieces of correspondence which had been redacted in reliance of section 40 of the FOIA – where the redacted information concerns the personal data of a third party.

Scope of the case

9. The complainant contacted the Commissioner on 19 December 2013 to complain about the way his request for information had been handled. The complainant was concerned about the Council’s initial application of section 14 of the FOIA to his request. He stated his belief that the Council was possibly using section 14 to avoid requests for information and he referred to other complaints he had made to the Commissioner where the Council had been found at fault.
10. The Commissioner notes that the complainant did not complain about the redaction of information from the correspondence sent to him by the Council. He has therefore not considered in this decision notice whether those redactions are appropriate.

Reasons for decision

11. Section 1 of the FOIA provides a general right of access to information held by public authorities. It states that –
 - (1) 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.
12. Section 10 of the FOIA requires a public authority to comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt of the request.
 13. The Commissioner notes that the Council complied with the requirements of section 1 of the FOIA on 18 December.
 14. In complying with the request on that date, the Council exceeded the time for compliance provided by the Act and therefore breached section 10.

Other matters

15. The outcome of the Council's internal review of 18 December was to provide the complainant with the information he seeks, subject to the application of section 40 – the exemption for personal data.
16. The Council's internal review advised the complainant that three pieces of correspondence had been redacted in reliance of section 40 of the FOIA. The Commissioner considers that, in advising the complainant of the application of this exemption to disclosure, the Council has complied with the requirements of section 17 of the FOIA.
17. The effect of the Council's action was, in reality or fact, to withdraw its reliance on section 14 – vexatious and repeated requests.
18. The Commissioner considers that an internal review is the public authority's opportunity to confirm its original position or to amend it. It is also an opportunity to rectify any errors which may have been made and to provide the complainant with further explanation in respect of the handling of his request.
19. The Commissioner believes the Council was entitled to reconsider whether section 14 was appropriately applied to the complainant's request in this case and to withdraw this on second consideration.

Right of appeal

20. 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

21. 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.
22. 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
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Wycliffe House
Water Lane
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Cheshire
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