

## **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)**

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1. The complainant requested from Goring Parish Council ("the Parish Council"), following the cancellation of a Parish Council meeting, a copy of the agenda for that meeting and a copy of the agenda with the word cancelled overlying the text. The Parish Council provided a response to the first part of the complainant's request but did not provide a response to the second part of the request until after the involvement of the Commissioner.
2. The Commissioner's decision is that the Parish Council has breached section 1 of FOIA by not confirming that it held information falling within the scope of the second part of the complainant's request and by not providing that information to him by the time of the completion of the internal review. It also breached section 10 by not providing to the complainant the information falling within the second part of his request within 20 working days of receipt of the request. The Commissioner does not require the Parish Council to take any further steps to ensure compliance with the legislation.

### **Request and response**

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3. On 12 August 2013 the complainant made the following request for information to the Parish Council:

*"An agenda and summons for a Parish Council meeting on 12 August 2013 has been posted on the council's noticeboards with a note saying "cancelled" overlying the text.*

**Information Required**

- 1. A copy of the agenda as prepared for the meeting.*
- 2. A copy of the agenda as displayed, showing the "cancelled" note overlying the text."*
4. On 14 August 2013 the Parish Council responded. It provided a response to the first part of the request. It did not provide a response to the second part of the request.
5. On 3 September 2013 the complainant requested an internal review.
6. On 4 October 2013 the complainant complained to the Commissioner about the Parish Council's failure to respond to the second part of his request and its failure to respond to his request for an internal review.
7. On 14 November 2013 the Parish Council provided the outcome of the internal review. It had previously indicated that the review had been carried out at the Parish Council meeting of 14 October 2013 but that it was only able to send the complainant a copy of the minutes of the meeting once they had been agreed. The review it carried out relates to the procedure for the cancellation of Parish Council's meetings rather than being a review of its handling of the request for information.
8. On 17 March 2014, following discussions with the Information Commissioner's Office, the Parish Council wrote to the complainant and provided him with the information which he had requested in the second part of his request. It indicated that this information had been located following further searches.

**Scope of the case**

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9. The complainant initially contacted the Commissioner on 4 October to complain about the Parish Council's failure to respond to the second part of his request and its failure to respond to his request for an internal review. Having received a response to his request for an internal review, the complainant subsequently made a further complaint on 20 December 2013 that he had still not received a copy of the information requested in the second part of his request. Following receipt of the information requested in the second part of his request in March 2014,

the complainant raised concerns about procedural aspects of the Parish Council's handling of his request.

10. The Commissioner considers whether the Parish Council had breached any of the procedural aspects of FOIA in its handling of the complainant's request.

## **Reasons for decision**

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### **General Right of Access and time for compliance – sections 1 and 10**

11. Section 1(1) provides 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."*

12. By not confirming that it held information falling within the second part of the complainant's request and not providing this to him by the time of the completion of the internal review, the Parish Council breached section 1(1)(a) and (b) of FOIA.
13. Section 10(1) provides that a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt of a request. By not complying with section 1(1) within twenty working days of receipt of the request, the Parish Council breached section 10(1).

### **Other matters**

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14. The Commissioner would normally expect a public authority to complete an internal review within 20 working days of it being requested. In this case, it took over 40 working days before the complainant was notified of the outcome of the internal review.
15. The Parish Council has explained that the complainant's request for an internal review, made on 3 September 2013, arrived too late for it to be carried out at the full Parish Council meeting in September 2013 and that, therefore, the review had to take place at the next full Parish Council meeting in October. It went on to explain that a response could

only then be sent to the complainant once a copy of the minutes of the meeting had been agreed. This was sent on 14 November 2013.

16. It appears to the Commissioner that it may be appropriate for the Parish Council to review its current procedures for carrying out internal reviews under FOIA, partly to try to remove the risk of significant delays. For example, he wonders whether it is necessary for an internal review to be carried out at a full Parish Council meeting or whether it may be possible for responsibility for carrying out internal reviews to be delegated to individual councillors who could undertake this role as and when required.
17. In addition, related to the above, it is appropriate that a requester is personally notified of the outcome of an internal review, and the reasons for that outcome, rather than being sent a copy of the minutes of a Council meeting at which the matter was discussed.
18. The Commissioner also notes that, in his request for a review of 3 September 2013, the complainant indicated that he did not believe that the Parish Council's response to his information request was in compliance with the law. The internal review carried out by the Parish Council was a review of its procedures related to the cancellation of its meetings rather than, as the complainant was seeking, a review of the handling of his request. The Parish Council needs to take care to ensure that where it receives a request for a review from a requester following the issuing of a response under FOIA, it carries out a review of its handling of that request unless it is apparent that this not what the requester wants.
19. Finally, the Commissioner notes that the Parish Council was able to locate the information that the complainant had requested in the second part of his request quite quickly after his office requested the Council search for it. He would expect that, in future, the Parish Council would ensure that it carries out full and proper searches for information that has been requested at the time that the request is made. This will hopefully help to reduce the need for complaints to his office and, if complaints are made, the time needed to investigate them.

## Right of appeal

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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](mailto:GRC@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://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 .....**

**Rachael Cragg**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**