

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 5 February 2015

Public Authority: Exelby Leeming and Newton Parish Council

Address: Russit House
Sycamore Lane
Leeming
Northallerton
North Yorkshire
DL7 9SU

Decision (including any steps ordered)

1. The complainant's associate has requested information relating to Exelby Lemming and Newton Parish Council's appointment of its external auditor.
2. The Commissioner finds that the Council has failed to comply with the requirements of section 10 of the FOIA by failing to respond to the complainant's associate's information request within the twenty working days compliance time.
3. The Commissioner requires the Council to issue a response to the complainant's associate's request which properly complies with the requirements of section 1 of the FOIA.
4. The public authority 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 Act and may be dealt with as a contempt of court.

Request and response

5. On 24 October 2014, the complainant's associate wrote to Exelby Leeming and Newton Parish Council ("the Council") and requested information in the following terms:

"Under the terms of the Freedom of Information Act, please provide to me all documentation pertaining to the Council's appointment of the Council's Internal Auditor, [a named person]. You have 20 working days in which to respond; given the gravity of the matters under scrutiny, I would urge you to provide your response as soon as possible."

6. On 2 December 2014 the Commissioner wrote to the Council. He provided the Council with a copy of the complainant's associate's request and asked the Council to make its response to it within the following ten working days.

Scope of the case

7. On 2 December the complaint advised the Commissioner that her associate required a decision notice to be issued which recorded the Council's failure to respond to the request within the time for compliance provided by section 10 of the FOIA.
8. On 17 December the complainant wrote to the Commissioner again to advise him that her associate had still not received a response from the Council to his request for information.
9. This notice sets out the Commissioner's decision in this matter. It is issued under section 50 of the FOIA to be served on the Council.

Reasons for decision

Section 1

10. 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.

Section 10

11. 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.
12. On 21 January 2015 the Council informed the Commissioner that it had not responded to the complainant's associate's request of 24 October 2014. By failing to respond to the request within twenty working days of its receipt, the Commissioner must find that the Council has contravened section 10 of the FOIA.

Right of appeal

13. 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: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk

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

14. 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.
15. 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
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF