

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

### **Decision notice**

**Date:** 19 March 2015

**Public Authority:** Pennard Community Council

**Address:** pennardcommunitycouncil@gmail.com

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

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1. The complainant requested information about all motions discussed at meetings of Pennard Community Council ('the Council') and the minutes of the open and closed session of the meeting on 29 September 2014. The Council failed to respond within the statutory 20 working days prescribed by the FOIA. The Commissioner's decision is that the Council breached section 10(1) of the FOIA as it did not respond to the request within the timescale for compliance. As a substantive response has now been provided to the complainant, he does not require any remedial steps to be taken.

### **Request and response**

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2. On 30 January 2015, the complainant wrote to the Council and requested information in the following terms:

"In accordance with the Freedom of Information Act:

1. Please supply copies of all motions (i.e proposals) moved at full-council meetings which the mover has given written notice of its wording to the Clerk/Proper Officer at least 7 clear days before the meeting. Please include details of the mover's name(s) in your response, together with the date they were received. Please also supply a copy/photocopy of the record of motions (i.e. proposals) received by the Clerk/Proper Officer which are recorded in the Minute Book and numbered in the order they were received.

2. Please supply:

a. A copy of the minutes of the meeting of Pennard Community Council held on 29th September 2014 (unavailable on the website: <http://pennardcc.org.uk/pennard-community-council-minutes>); and

b. A copy of the 'in camera' minutes of the meeting of Pennard Community Council held on 29th September 2014, having first redacted any personal information, deemed confidential, contained within them.

I would prefer to receive a response to this request in electronic format, if this is possible".

3. The Council acknowledged the request on 10 February 2015 and confirmed a reply would be issued in due course.
4. The complainant wrote to the Council on 2 March 2015 regarding its failure to respond to the request.

### **Scope of the case**

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5. The complainant contacted the Commissioner on 2 March 2015 to complain about the way his request for information had been handled.
6. The Commissioner wrote to the Council on 13 March 2015 and reminded it of its obligations under the FOIA to respond to requests promptly, and within 20 working days following receipt.
7. The complainant contacted the Commissioner on 13 March 2015 to request that he issue a decision notice in respect of his complaint.
8. The Council responded to the request on 16 March 2015, issuing a refusal notice stating that it was applying section 14(1) to the request (along with others submitted by the complainant) as it considered the requests to be vexatious.
9. In light of the above, the Commissioner considers the scope of this case will be to determine whether the Council handled the request in accordance with the FOIA. Specifically, the Commissioner has considered whether the Council breached section 10(1) of the FOIA.

### **Reasons for decision**

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#### **Sections 1 and 10**

10. Sections 1 and 10 of the FOIA provide a general right of access to recorded information held by public authorities. These sections provide

that when a written request for information is made, the public authority must state whether it holds that recorded information within 20 working days. If it does, it must provide that information within 20 working days unless a valid reason for not doing so exists under the FOIA. If such a reason does exist, a refusal notice should be issued in accordance with section 17 of the FOIA, again within 20 working days.

11. In this case the Council failed to respond to the request within the 20 working day timescale. By not complying with section 1(1) within twenty working days of receipt of the request, the Council breached section 10(1) of the FOIA.

## Right of appeal

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

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

13. 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.
14. 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**