

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 25 May 2017

Public Authority: West Felton Parish Council (the Council)

Address: Parish Office
Forton Bank
Montford Bridge
Shrewsbury
SY4 1ER

Decision (including any steps ordered)

1. The complainant made a request to the Council for a copy of a formal Declaration made by a particular Councillor. The Council refused to comply with the request under section 14 FOIA as it considers it to be vexatious.
2. The Commissioner's decision is that the Council correctly applied section 14 FOIA to the request.
3. The Commissioner requires no steps to be taken.

Request and response

4. On 23 February 2017 the complainant requested information of the following description:

"I note that, by minute 9b) of the Parish Council meeting held on 17th January 2017, Councillor [named individual] is recorded as having made her above formal Declaration (in accordance with the terms of section 83 of the Local Government Act 1972). However, I cannot trace that document having been published on its website as has been the case in respect of other members (notwithstanding that at least one former member's Declaration is still made available thereon). Therefore, I shall be glad if you will please provide me with a copy thereof (but only because I am apparently unable to access it for myself). I consider it is a pity that is apparently the situation as it generates unnecessary additional effort and delay for both of us."

5. On 28 February 2017 the Council responded. It stated that there was no legal obligation upon it to make the Declaration of Acceptance available on its website. On 1 March 2017 the complainant wrote to the Council as he was dissatisfied with the response he had received. This would therefore be classed as a request for internal review.
6. The Council sent the outcome of its internal review on 30 March 2017. It confirmed that it was applying section 14 FOIA to refuse to comply with the request.

Scope of the case

7. The complainant contacted the Commissioner 2 March 2017 to complain about the way his request for information had been handled.
8. The Commissioner has considered whether the Council correctly applied section 14 FOIA to the request.

Reasons for decision

Section 14 – Vexatious requests

9. Section 14 of FOIA states that a public authority is not obliged to comply with a request for information if it is vexatious.
10. The Commissioner's guidance¹ on the application of section 14(1) FOIA, refers to an Upper Tribunal decision² which establishes the concepts of 'proportionality' and 'justification' as central to any consideration of whether a request is vexatious.
11. The guidance suggests that the key question the public authority must ask itself is whether the request is likely to cause a disproportionate or

¹http://www.ico.org.uk/for_organisations/guidance_index/~ /media/documents/library/Freedom_of_Information/Detailed_specialist_guides/dealing-with-vexatious-requests.ashx

² *Information Commissioner vs Devon County Council & Dransfield* [2012] UKUT 440 (AAC) (28 January 2013)

unjustified level of disruption, irritation or distress. Where this is not clear, the Commissioner considers that public authorities should weigh the impact on the authority and balance this against the purpose and value of the request. Where relevant, public authorities will need to take into account wider factors such as the background and history of the request.

12. The Council explained that the complainant moved into its Parish 14 years ago and decided at that point that his mission would be to bring down the Parish Council. It said that he has very nearly succeeded. In this period of time it has had 11 different clerks, it alleged were bullied out of their jobs by the complainant. In October 2016, it said that the preceding clerk resigned after 4 years of being bullied by the complainant. It said that it appointed a new clerk on January 3rd 2017. It said that she was thrilled to accept the job and was very keen. Since her appointment the new clerk has received over 140 emails from the complainant, plus 3 Freedom of Information requests. The new clerk was very keen to do the 'right thing' in her new job, so she replied to the first two FOI requests, but was instructed by the Chair of the Council to ignore anymore as they were very clearly vexatious due to the background and history over the last 14 years. The Council has said that the new clerk is not so keen on her new job now due to the complainant's actions. It went on that every single one of the complainant's emails are written in a sort of 'olde english' style which is very difficult to understand, and many are patronising, condescending and officious.
13. The Council provided evidence of the complainant's communications with it over the last 4 years which was put together by the preceding clerk. The Commissioner notes the vast volume of correspondence from the examples provided and also accepts that they often contain a disparaging tone.
14. The Council also referred the Tribunal decision in EA/2013/0212³ (relating to a previous FOIA request made by the complainant), Judge Warren stating 'answering them would simply trigger more'. The Council therefore argued that it is irrelevant how simple this request may or may not be, it is that it has to be resisted or it opens the floodgates.
15. The Council concluded that the councillors are humble people who just want to volunteer to put back something into their community. It said

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[http://informationrights.decisions.tribunals.gov.uk/DBFiles/Decision/i1238/Lovell,%20Lionel%20Christopher%20EA.2013.0212%20\(19.03.14\)%20Prom%20date%2020.03.14.pdf](http://informationrights.decisions.tribunals.gov.uk/DBFiles/Decision/i1238/Lovell,%20Lionel%20Christopher%20EA.2013.0212%20(19.03.14)%20Prom%20date%2020.03.14.pdf)

that the council tax payers of West Felton do not want the clerk being paid vast amounts of overtime to deal with correspondence and FOI requests from the complainant and thus increase the amount of council tax they pay. It argued that the FOIA was never introduced to be used as a weapon with which to damage/destroy a parish council.

16. The Commissioner considers that for the same reasons as referred to by the Tribunal in EA/2013/0212 and because the 140 emails sent to the new Clerk since her appointment in January 2017 demonstrate that the complainant is persisting in his actions, this request is vexatious under section 14 FOIA.

Right of appeal

17. 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

18. 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.
19. 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

Gemma Garvey
Senior Case Officer

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Water Lane
Wilmslow
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