

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 12 March 2014

Public Authority: West Felton Parish Council
Address: Parish Office
Forton Bank
Mountford Bridge
Shrewsbury
SY4 1ER

Decision (including any steps ordered)

1. The complainant has requested from West Felton Parish Council copies of its Burial Ground Survey and Annual Return-13 both of which were referred to and discussed at its meeting on 24 October 2013.
2. West Felton Parish Council has failed to respond to the complainant's request promptly or in any event within 20 working days. The Commissioner therefore finds that it has breached section 10 of the FOIA.
3. The Commissioner requires West Felton Parish Council to take the following steps to ensure compliance with the legislation.
 - Issue a response to the complainant's request dated 29 October 2013 under the FOIA.
4. West Felton Parish Council 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 29 October 2013 the complainant wrote to West Felton Parish Council (attaching and referring to his earlier email dated 23 October) and requested information in the following terms:

'I am now redirecting below another message to you which will have gone astray on account of being directed to your previous e-mail address'.

6. In his earlier email dated 23 October 2013 the complainant stated:

*'I have still not received the hard copy of the agenda requested in my message below.'*¹

Please also send me a copy of the 'Burial Ground Survey' referred to in agenda item 6.2 for tomorrow evening's Parish Council meeting'.

Additionally, I am unable to read the 'Annual Return-13' document referred to in agenda item 6.5 thereof, as included in the papers for that meeting posted on the Parish Council's website. This is because it is incomplete (i.e. Section 4 is not included and Section 3 is partly obscured) and I have not found it possible to zoom-in to any particular part thereof so as to make it readable, particularly for someone with my poor eyesight. Therefore, please also provide me with a hard copy of the whole of that document in accordance with the requirements of Section 14(1) (c) of the above 1998 Act², pursuant to my entitlement as a local elector for the area'.

7. The complainant wrote to West Felton Parish Council again on 20 November 2013 as he had not received a response to his earlier request.

Scope of the case

8. The complainant contacted the Commissioner on 26 November 2013 to complain that West Felton Parish Council had failed to respond to his request dated 29 October 2013 despite reminders having been sent to the Parish Clerk.

Chronology

¹ Email dated 19 October 2013 when the complainant requested a 'hard copy of the agenda for the Parish Council meeting to be held on Thursday 24 October 2013'.

² A reference to the Audit Commission Act 1998

9. The Commissioner wrote to West Felton Parish Council on 4 and 9 December 2013 to remind it of its obligations to respond to requests for information in the appropriate manner under the terms of the FOIA

Reasons for decision

Section 1 of the FOIA – information held

10. Section 1 of the FOIA states that a public authority must tell a requester whether or not it holds the information they have requested and, if it does, the authority must communicate that information to them.

Section 10 of the FOIA – time for compliance

11. Section 10 of the FOIA states that a public authority must comply with section 1 promptly and in any event, within 20 working days.
12. In this case the complainant made his request on 29 October 2013 but West Felton Parish Council has not responded despite reminders from both the complainant and the Commissioner.
13. The Commissioner finds that the failure by West Felton Parish Council to respond to the complainant's request amounts to a breach of section 10(1) of the FOIA.

Right of appeal

14. 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

15. 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.
16. 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