

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 20 November 2018

Public Authority: Beckley and Stowood Parish Council

Address: clerk@beckley-and-stowood-pc.gov.uk

Decision (including any steps ordered)

1. The complainant has requested information about the Council's correspondence with its auditors, a specific spreadsheet and the Council's budget, all in electronic format. The Council provided information falling within the scope of the request but denied holding the spreadsheet requested. It originally supplied the information held in hard copy, and later electronically.
2. The Commissioner's decision is that Beckley and Stowood Parish Council has breached section 10 of the FOIA by failing to supply information within 20 working days in the format requested by the complainant. The Commissioner is satisfied that, on the balance of probability, the spreadsheet requested was not held by the Council at the time the request was made, but finds that the Council has again breached section 10 by failing to confirm this within 20 working days. The Commissioner does not find any breach of section 1 as the Council provided all the information it held falling within the scope of the request by the time it had completed its internal review.
3. The Commissioner does not require the Council to take any further steps.

Request and response

4. On 24 January 2018 date the complainant wrote to Beckley and Stowood Parish Council and made the following request for information under the FOIA:

'1. Please could you supply me with all correspondence between the PC and its auditor from June 2015 to the present.

2. Item 9 of the PC's March 2016 minutes refers to "...Accounts Spreadsheets prepared by (redacted Cllr name)". Please let me have a copy of these spreadsheets.

3. I would also like a copy of the PC's budget for 2018-2019.

Please provide this information in electronic format. Please note that I am entitled to request this format under the FOI act.'

5. On 16 February 2018 the Council responded. It provided information within the scope of the request, but not in the format requested. The Council provided the information in the requested format on 23 February 2018.
6. The information provided by the Council did not include the 'Accounts Spreadsheets' requested, and the complainant followed this up on 24 April 2018. On 15 May 2018 following a review of the request the Council confirmed that (redacted Cllr name) did not hold the spreadsheet.

Scope of the case

7. The complainant contacted the Commissioner on 3 July 2018 to complain about the way his request for information had been handled. He did not consider that it was feasible the Council did not hold the spreadsheet he had requested, and was concerned that it may have been destroyed following his request but before the review stage when the Council confirmed it was not held.
8. The Commissioner considers the scope of the case to be whether the Council held the spreadsheet sought at the time of the request, and whether the Council complied with section 10 (time for compliance) of the FOIA.

Reasons for decision

Section 1 and Section 10

9. Section 1 of the FOIA 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"

and section 10 states 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".

10. The Council first provided a response to the complainant along with information falling within the scope of the request 16 working days after it was made.
11. The complainant requested the information electronically, but the Council supplied it in hard copy explaining that it did not 'have the ability to scan more than one sheet as such'. The complainant objected to this and the Council then supplied the hard copy information electronically, although this was 21 working days after the request was made. The Commissioner notes that the complainant gave a deadline to the Council for a response in the format requested otherwise he would complain to the Commissioner. The Council met this deadline, but unfortunately by doing so exceeded the statutory time for compliance. Whilst the Council originally implied that scanning all the documents would be problematic, it then did so. The Commissioner therefore concludes that it was 'reasonably practicable' to meet the requester's preference in its original response.
12. The Commissioner finds that the Council breached section 10 of the FOIA by failing to respond to the complainant in the format he requested within 20 working days. She does not find the Council breached section 11 of the FOIA (means by which communication to be made) as the Council did provide the information in the format requested by the time it had completed its review of the request.

13. As part of the request, the complainant asked for a copy of accounts spreadsheets prepared by a Councillor and presented at a meeting in March 2016. In its initial response to the complainant, the Council confirmed that a table was shared by the Councillor but states it was 'not pursued'. The complainant reiterated his request to the Council, who then provided a review response confirming that the Councillor did not retain the spreadsheets from 2016 as 'these were not pursued'.
14. The complainant was concerned that, on repeating his request, the Council stated it was no longer available and therefore it may have been destroyed following his request. He also considers that as the document was distributed to those at the meeting there would have been several copies, and should have formed part of the Council's official record.
15. As part of her investigation, the Commissioner asked a number of questions of the Council about the spreadsheets in order to ascertain whether it was or was not held by the Council at the time of the request. These included:
 - The nature of the spreadsheets and who produced / owned them
 - Who else had copies of the spreadsheets
 - Whether the spreadsheets were in hard or electronic copy
 - What searches were carried out to find the spreadsheets
 - If they were destroyed, when / how was this done
 - Whether there were any requirements to keep the spreadsheets, either from a records management perspective or because of a statutory requirement.
16. The Council explained that the spreadsheets were produced by the Councillor for the meeting to track payments and expenditure. A blank hard copy of the spreadsheet was shown to Councillors at the meeting. The Councillor who produced the spreadsheets did so electronically but has confirmed to the Council that she has not retained an electronic or hard copy. The Council itself states that it did not have any electronic or hard copies of the spreadsheet to destroy. Although the minutes of the March 2016 record that the spreadsheet was considered and that a meeting would be held to discuss this in more detail, the Council has confirmed that no further meeting was held and no action was taken regarding use of the spreadsheets. It has not been possible to ascertain how many copies were distributed at the meeting (if any) or what happened to them if they were taken away from the meeting by other

people, but this makes no material difference to the Council's position that it does not hold the document requested.

17. The Commissioner therefore concludes that, as the table was produced in hard copy only for a meeting almost 2 years before the request was made, and that there was no reason for the Council to keep a copy, on the balance of probability the 'Accounts Spreadsheets' requested by the complainant was not held by the Council at the time of the request.
18. However, as the Council failed to confirm or deny this within 20 working days of the request, the Commissioner finds the Council breached section 10 (time for compliance) of the FOIA. The Council confirmed that it did not hold the information by the time the internal review was complete, and as the Commissioner accepts that the information is not held by the Council, there has been no breach of section 1 of the FOIA.

Right of appeal

19. 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

20. 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.
21. 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
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