

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 16 August 2022

Public Authority: Withernsea Town Council
Address: The Meridian Centre
201 Queen Street
Withernsea
HU19 2HH

Decision

1. The complainant requested information from Withernsea Town Council ("the Council"). The Commissioner's decision is that the Council was entitled to refuse to comply with the request in accordance with section 12(1) (cost limit) of the FOIA.
2. However, he finds that the Council failed to provide reasonable advice and assistance and therefore failed to meet its obligations under section 16(1) of the FOIA.
3. The Commissioner requires the Council to take the following steps to ensure compliance with the legislation.
 - Provide the complainant with advice and assistance to help him submit a request falling within the appropriate limit.
4. The 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. The complainant made the following information request to the Council on 12 December 2021:

"I now wish to address my request for information through the Freedom of Information Act. These are as follow;

A request for a copy of the reports, including recommendations from the persons with whom the TC have been in contact with in relation to the condition and future management of the Playing Field Trees during the past four years, including the East Riding of Yorkshire Council Tree Officer, whom I suggested in earlier correspondence.

Reports, feedback and recommendations involving Town Councillors decision relating to the Tree issues, including copies of the minutes occurred from meetings.

The individual costings and dates from public funds charged by individual contractors who attended the Playing Field over the past 4 years to address work needed on the trees and subsequent reports and recommendations.

A copy of the TC's maintenance schedule relating to their responsibilities, to include timescales and Health and Safety checks for all of their property responsibilities and to show the occasions when all three outside workers are required to be present to perform the duties.

Copies of the last four Personnel sub committee meetings. I respect personal private information should not be disclosed, but do expect to include the management matters mentioned above and the workload issued staff are presented with."

6. The Council refused to provide the requested information citing section 12 (cost limit) of the FOIA as its basis for doing so.

Reasons for decision

7. This reasoning covers whether the Council is correct to apply section 12(1) (cost limit) of the FOIA to the request.
8. The Council considers that the cost of complying with the request would exceed the appropriate limit under the FOIA. The Council explained that as most of the requested information is not held electronically, it would

have to manually review over 4 years worth of records for information within the scope of the request in order to provide the requested information. The Council estimates that this would take over 18 hours and exceed the appropriate limit.

9. As the scope of the request is very broad, the Commissioner considers that the Council has estimated reasonably that the cost of complying with the request would exceed the appropriate limit. Therefore, the Commissioner's decision is that the Council was correct to apply section 12(1) of the FOIA to the request.
10. However, as the Council did not advise the complainant that they could refine their request to bring it within the cost limit or provide the complainant with suggestions on how to narrow the scope of their request, the Commissioner considers that the Council has failed to provide adequate advice and assistance and has therefore breached section 16(1) of the FOIA.
11. The Commissioner requires the Council to provide the complainant with advice and assistance to help them submit a request which falls within the appropriate limit.

Right of appeal

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@justice.gov.uk

Website: 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

Ben Tomes
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Cheshire
SK9 5AF