

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 19 September 2011

Public Authority: Stondon Parish Council
Address: 10 St Margaret's Gardens
Biggleswade
Bedfordshire
SG18 8NU

Decision (including any steps ordered)

1. The complainant has requested information relating to the land line and mobile telephones used by the Clerk of Stondon Parish Council from approximately November 2010 onwards.
2. The Commissioner's decision is that Stondon Parish Council does not hold the requested information.

Request and response

3. On 27 June 2011, the complainant wrote to Stondon Parish Council and requested information in the following terms:

"I am writing to request all documentation relating to the land line and mobile telephones as used by the clerk for Stondon Parish Council business, from approx Nov 2010 to date, and including, see below.

1. *A breakdown of monthly charges and who is paying for what, eg. If we don't have exclusive use of these lines who are we sharing rental and/or charges with? Can I please have detailed information about exactly what Stondon is paying for?*
2. *Of course I understand that you may have made some third party calls which is why I accept redacted information, leaving visible all those calls to numbers related to Stondon P.C business."*

4. Stondon Parish Council responded on 27 June 2011. It stated that the requested information was not held by the Council.
5. Stondon Parish Council confirmed to the Commissioner during this investigation that it had not carried out an internal review of its handling of the request.

Scope of the case

6. The complainant contacted the Commissioner to complain about the way his request had been handled and Stondon Parish Council's failure to provide the requested information to him.

Reasons for decision

7. Section 1 of FOIA states that:

"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."

8. Stondon Parish Council explained to the Commissioner that it did not hold the requested information as it only contributed towards the rental costs and call charges by paying a fixed amount to the Clerk for the use of a private telephone line.
9. The Clerk of the Council confirmed to the Commissioner that this agreement was included in her contract of employment with the Council. The contract stated that the Council would either provide a separate telephone/fax line or reimburse telephone/fax/internet call expenses incurred on a private line at a fixed rate of £35 per month. The Council then agreed to raise the amount to £65 to cover the costs of calls and a mobile phone for Council use.
10. The Commissioner was provided with a copy of the Clerk's pay slip which showed the fixed amount being paid by the Council towards the telephone costs.
11. The Clerk told the Commissioner that the telephone line, internet access, fax and mobile phone were used for Stondon Parish Council work. The Clerk had carried out work for another council for a number of

years and has self-employment status covering her to locum and undertake internal audits of other councils. The Clerk stated that the land line was her own private work line and that she had her own personal land line separate to that used for Council work.

12. The Commissioner notes that the complainant was made aware of the agreement between the Council and the Clerk and as a Councillor himself had been party to agreeing the terms and signing the cheques reimbursing the Clerk. In correspondence from the Clerk to the complainant, the Commissioner notes that the Clerk likened the request to asking to see her household electricity, gas and water bills for working on Council business from home.
13. The Commissioner's view is that due to the nature of the agreement – that the Clerk uses a private home land line for Council business which the Council then reimburses her for with a fixed monthly amount – the Council does not hold any information relating to the costs and rental of the telephone line, fax or internet access. The Council does not pay directly for the rental or costs incurred with the phone line but enhances the Clerk's salary in order to provide reimbursement of charges. There would be nothing on record at the Council for auditing purposes showing the itemised use of any of the telecommunications or the line rental. The account holder is the Clerk herself rather than the Council and for this reason the land line, although used for Council business, is a personal contract between the Clerk and the telecommunications company. For these reasons Stondon Parish Council does not hold any of the requested information.

Other matters

Internal review

14. Part VI of the section 45 Code of Practice makes it desirable practice that a public authority should have a procedure in place for dealing with complaints about its handling of requests for information, and that the procedure should encourage a prompt determination of the complaint. As he has made clear in his *'Good Practice Guidance No 5'*, the Commissioner considers that these internal reviews should be completed as promptly as possible. While no explicit timescale is laid down by the Act, the Commissioner has decided that a reasonable time for completing an internal review is 20 working days from the date of the request for review. In exceptional circumstances it may be reasonable to take longer but in no case should the time taken exceed 40 working days. The Commissioner is concerned that in this case Stondon Parish Council did not complete an internal review of its original decision, despite the publication of his guidance on the matter.

Response to request

15. Although the Commissioner agrees with Stondon Parish Council's overall decision that the requested information is not held, he notes that the response from the Council could have been clearer in its explanation as to why this was. The Council also did not directly relate its response to section 1(1)(a) of FOIA when confirming that no information was held. The Commissioner advises the Council to be aware of this for future requests and suggests that the Council visits his guidance on how to respond to requests for information published on his website.

Right of appeal

16. 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: informationtribunal@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

17. 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.
18. 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

Jon Manners
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