

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 11 January 2019

Public Authority: Killamarsh Parish Council
Address: Killamarsh Community Campus
Stanley Street
Killamarsh
Sheffield
S21 1EL

Decision (including any steps ordered)

1. The complainant has requested a copy of a signed transfer agreement for the transfer of ownership of a war memorial between Killamarsh Parish Council ("the Council") and the Royal British Legion.
2. The Commissioner's decision is that the Council failed to respond to the request within 20 working days and has therefore breached section 1(1)(a) and section 10(1) of the FOIA.
3. As a response has now been issued, the Commissioner does not require any further steps to be taken.

Request and response

4. On 18 September 2018, the complainant wrote to the Council and requested information in the following terms:

"[Named Person] informed me that the Parish Council signed over the ownership of the War Memorial to the Royal British Legion upon its' completion, and therefore the Parish Council is not responsible for correction on the Memorial. I would like to request under the above act a copy of the signed transfer document."

5. The Council wrote to the complainant on 20 September 2018. It advised that it was continuing to discuss the related issues and that it hoped to have further information "*as soon as possible*".
6. The complainant wrote to the Council on several more occasions asking for a full response to her request.
7. On 14 November, following a complaint to the ICO, the Council provided a substantive response.

Scope of the case

8. The complainant contacted the Commissioner on 17 October 2018 to complain about the way her request for information had been handled. At this stage, she had not received a substantive response to her request.
9. The following analysis covers whether the Council breached with section 10(1) (time for compliance) of the FOIA.

Reasons for decision

Section 10 – time for compliance

10. Section 1(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."

11. Section 10 of the FOIA 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".

12. In this case, the request was made on 18 September 2018 and the Council issued a substantive response on 14 November 2018. From the evidence presented to the Commissioner in this case, in failing to provide a response within 20 working days, the Council has breached section 1(1)(a) and section 10(1) of the FOIA.

13. As a response has now been provided, the Commissioner does not require the Council to take any steps but would remind the Council of the need to issue a substantive response within the statutory time for compliance.

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: 0870 739 5836

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

Andrew White
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF