

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 28 November 2022

Public Authority: Thorne Moorends Town Council

Address: Assembly Rooms
Fieldside
Thorne
DN8 4AE

Decision (including any steps ordered)

1. The complainant has requested Thorne Moorends Town Council (the council) to disclose a copy of a housing need assessment and the minutes of a meeting dated 17 September 2021. To date the council has failed to respond to the complainant's request in accordance with FOIA.
2. The Commissioner requires the council to take the following steps to ensure compliance with the legislation.
 - Provide a response to both requests in accordance with FOIA. It is required to confirm if the information is held and, if held, communicate that information to the complainant, unless it is exempt from disclosure. If any of the information is exempt from disclosure it is required to issue a refusal notice in accordance with section 17 of FOIA.
3. The public authority 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

4. On 18 April 2022, the complainant wrote to the council and requested information in the following terms:

"...a copy of the Housing Need Assessment that has been undertaken by Thorne Moorends Town Council for its Neighbourhood Plan for which £30,000 funding was agreed by Doncaster Council in October 2021 as below:-

Decision to assist Thorne Moorends Town Council with funding towards the technical evidence base including with respect to Housing needs and flood risk."
5. On 12 May 2022 the complainant also requested:

"...the minutes draft or otherwise or any recorded information relating to the meeting held on the 17th of September 2021 between Doncaster Council, Thorne Moorends Town Council and the Environment Agency."
6. As the complainant received no response, she chased the matter up on 17 June 2022.
7. The council responded on 17 June 2022. It stated that it was unable to provide the information requested and was now considering whether the complainant's repeated requests for information are "fallacious".
8. The complainant requested an internal review the same day.
9. The council responded again on 18 June 2022. It stated that the complainant continually refuses the offer it has made to meet the Town Mayor and elected members to discuss and resolve her concerns and therefore it is unable to help further.

Scope of the case

10. The Commissioner considers the scope of his investigation to be to determine whether the complainant's requests of 18 April and 12 May 2022 have been handled by the council in accordance with FOIA.

Reasons for decision

11. Section 1 of FOIA entitles anyone making a request for information to a public authority to be informed in writing whether it holds the

information of the description specified in the request and to have that information communicated to them, unless the information is exempt from disclosure under Part II of FOIA.

12. Section 10 of FOIA also requires a public authority to respond to a request promptly and in any event no later than 20 working days from receipt.
13. The council's responses do not confirm whether the requested information is held and, if it is held, whether it can be disclosed under FOIA. The responses refer to the offer of a meeting and the complainant refusing to take this up and to her continuing requests being "fallacious".
14. These responses do not meet the requirements of FOIA. The complainant is entitled to know in writing if the information is held and if it is to have that information disclosed, unless an exemption applies. Reference to the complainant's continuing request being "fallacious" is not a relevant exemption under FOIA. The complainant is also entitled to a response in writing as section 1 states despite the offer of a meeting and whether or not she is happy to take that up.
15. The Commissioner has therefore found the council in breach of section 1 and 10 of FOIA, as it remains the case today that it has still not responded to these requests in accordance with its obligations under FOIA.

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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

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

Samantha Coward
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF