

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 7 March 2023

Public Authority: Ibstock Parish Council
Address: Ibstock@ymail.com

Decision (including any steps ordered)

1. The complainant requested information from Ibstock Parish Council ('the council') relating to its accounts. The council refused the request under section 14(1) of FOIA (vexatious requests).
2. The Commissioner's decision is that the council was not correct to apply section 14(1) of FOIA.
3. The Commissioner therefore requires the council to take the following step to ensure compliance with the legislation.
 - Issue a fresh response to the complainant, which does not rely on section 14(1) of FOIA.
4. The council must take this step 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. Following an earlier decision notice, IC-137661-W4R9, which required the council to respond to the complainant's request for a copy of its most recent audit/accounts (i.e., given the time of the request, the accounts for 2021), the council disclosed a redacted copy of its accounts on 22 July 2022.
6. On 28 July 2022 the complainant wrote to the council stating that:

“I’m extremely disappointed to say that having asked on multiple occasions for a detailed copy of the accounts that you have simply sent a copy of the high level summary already available via your website.

What I am looking for to resolve my request is the level of detail other councils publish.”
7. On 16 September 2022 the council disclosed a further copy of the information which the complainant had requested. However, it redacted sections of the accounts which it disclosed, and also informed the complainant that it considered that his request was vexatious.
8. On 23 September 2022 the complainant requested that the council carry out an internal review. He considered that the council should not have redacted the sections from the accounts.
9. The council did not respond. It told to the Commissioner that, as the request is vexatious, it would not respond further. It also informed the Commissioner that the redacted sections contain salary information relating to its officers, and that it had told the complainant that that was the case.

Reasons for decision

Section 14(1) – vexatious requests

10. The following decision notice analysis whether the council was correct to apply section 14(1) of FOIA in order to refuse to respond to the complainant's request for information further.
11. Section 14(1) of FOIA states that a public authority is not obliged to comply with a request for information if the request is vexatious.

The council's arguments

12. The council argues that the complainant's request is vexatious as it follows on from numerous other requests made by him for information. It provided the Commissioner with a brief summary of issues it has had with the complainant. It described having received over 30 questions asked of the council via email and in council meetings from the complainant during 2021.
13. It said that the complainant had previously sought a position on the council but was not successful. The council therefore offered him a position on the council as a committee member, but he declined to take up that position. It argued that since that point, he has placed a significant burden upon it.
14. The council said that the complainant has previously attended council meetings and caused disruption by asking numerous questions. For this reason, it set in place a strict timeline of 3 minutes per person for asking questions in online meetings in order that meetings did not overrun, and everyone had the chance to ask questions. It said that it had responded to his many questions by email after the meetings had taken place.
15. The council said that the complainant has previously complained that he has not received emails, and demanded paper copies be sent of the information which it has sent to him. This takes time, and places an additional burden upon the authority.
16. It said that it has also previously informed the complainant of his right to inspect the accounts during its 30-day inspection period for annual accounts.
17. On 4 October 2021 the council emailed the complainant and offered him a meeting with its members where he could view the accounts in detail, and ask any questions he might have. The complainant, however, said that he wanted a copy of the information prior to taking part in the meeting.
18. The council also said that the complainant has made unwarranted accusations against the council in the past.
19. The council therefore described a situation where the complainant's requests has been disruptive to council business due to the number of questions he has asked of it, and his refusal to consider other ways of informally resolving the situation.

The complainant's view

20. The complainant argues that his request is not vexatious. He has had significant issues obtaining information from the council in relation to his requests for a copy of the audit/accounts previously, including having to make a number of complaints to the Commissioner. He argues that the council should be able to disclose information in accordance with other parish councils' account details.
21. For its part, the council argues that the example accounts noted by the complainant are published by much larger councils, not a small parish council such as theirs.

The Commissioner's decision

22. The Commissioner recognises that the council is a small public authority with limited resources. He therefore accepts that complying with the number of requests which it has received from the complainant over the last 2 years would place a significant burden on it, and particularly on the clerk.
23. However, he notes that responding to the remainder of this request would not cause the council a significant burden. The majority of the requested has already been responded to by the council. The Commissioner notes that the only information withheld from disclosure was the exact details of salary details for council staff.
24. The exact salary details of non-senior employees is likely to be exempt from disclosure because of their rights under the Data Protection Act 2018 (the DPA). The exemption in section 40(2) of FOIA will often be applicable. The Commissioner therefore recognises that the redactions made by the council may be appropriate under section 40(2) of FOIA. However, the council has not applied section 40(2) to withhold the information, and it has not explained its reasons for making them in terms of section 40(2). It chose, instead, to rely upon section 14.
25. Part of the test for the appropriate application of section 14 is to balance the public value of the information requested against the burden which would be placed upon the authority in responding to the request for information.
26. There is public value to a disclosure of salary details where that information can be disclosed in compliance with the individual's rights under the DPA. Disclosing salary details relating to council employees provides the public with a good overview of the spending of public money on salaries. The council publishes a total staff costs figure on its website, which addresses this point to a degree, however details of

individual salaries, and other payments cannot be extracted from this data.

27. The Commissioner notes the complainant's argument that there had been a significant rise in costs during 2021. In an email he sent to the council dated 14 October 2021 he said that: "The response we're looking for is a copy of the audit/accounts so residents have an understanding of how our funds are being used. Especially given the 26.2% increase."
28. Given the public value of the requested information, balanced against the burden of responding to the request, the Commissioner is satisfied, that the complainant's request was not vexatious in this instance.
29. The Commissioner therefore requires the council to issue a fresh response to the complainant which does not rely on section 14(1) of FOIA.

Right of appeal

30. 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

31. 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.
32. 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

Ian Walley
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