

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 22 July 2024

Public Authority: Northiam Parish Council
Address: Parish Office
Main Street
Northiam
Rye
TN31 6LP

Decision (including any steps ordered)

1. The complainant requested information relating to the sale of some prefabricated units by Northiam Parish Council (the Council). The Council relied on section 14 (vexatious or repeated requests) of FOIA to refuse the request.
2. The Commissioner's decision is that, as the Council has not provided any information to support its application of the exemption, the complainant's information request was not vexatious or repeated and so the Council was not entitled to rely on section 14 of FOIA to refuse the request.
3. The Commissioner requires the Council to take the following step to ensure compliance with the legislation.
 - Issue a fresh response to the request that does not rely on section 14 of FOIA.
4. The Council must take this step within 30 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. On 27 July 2023, the complainant wrote to the Council and as part of a longer piece of correspondence, requested information in the following terms:

“... on the bottom of page 2 he also states that the "The prefabricated units have been sold and taken away." As these were NPC property, please can you guide me to the minutes of the NPC council meeting approving this sale (if necessary, please treat this as an official freedom of information request) and where did this money go? Please could you show the NPC accounting trail related to this, which should also be treated as an FOI request.”
6. The Council responded on 31 October 2023. It refused the request under section 14 (vexatious or repeated requests) of FOIA.
7. The complainant requested an internal review of the decision on 31 October 2023. The Council did not carry out an internal review.

Reasons for decision

Section 14 – vexatious or repeated requests

8. The following analysis considers whether the Council was correct to rely on section 14 of FOIA to refuse the request.
9. Within its response to the complainant, the Council has not specified whether it is relying on section 14(1) (vexatious) or section 14(2) (repeated requests) to refuse the request, nor has it provided any reasoning for applying the exemption.
10. 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 Commissioner’s [guidance on section 14\(1\)](#) states that section 14(1) is designed to protect public authorities by allowing them to refuse any requests which have the potential to cause a disproportionate or unjustified level of disruption, irritation or distress.
11. Section 14(2) of FOIA states that: ‘Where a public authority has previously complied with a request for information which was made by any person, it is not obliged to comply with a subsequent identical or substantially similar request from that person unless a reasonable interval has elapsed between compliance with the previous request and the making of the current request.’

12. The Council has not provided any arguments or submissions to the Commissioner which explains its reliance on either section 14(1) or 14(2) to refuse the complainant's request, despite being given more than one opportunity to do so.
13. In the absence of this input from the Council, the Commissioner concludes that the complainant's request was neither vexatious nor repeated and so the Council was not permitted to refuse it under section 14.
14. The Commissioner requires the Council to issue a fresh response to the complainant's request which does not rely on section 14 of FOIA.

Procedural matters

15. Section 10(1) of FOIA obliges a public authority to comply with section 1(1) promptly and within 20 working days following the date of receipt of the request.
16. In this case the request was made on 27 July 2023, and the Council sent its response on 31 October 2023, outside of the 20 working days allowed.
17. As the Council failed to respond to the request within 20 working days, the Commissioner finds that it has breached section 10(1) of FOIA.

Other matters

18. Although they do not form part of this notice the Commissioner wishes to highlight the following matters of concern.

Internal review

19. There is no obligation under FOIA for a public authority to provide an internal review process. However, it is good practice to do so and, where an authority chooses to offer one, the section 45 FOIA code of practice sets out, in general terms, the procedure that should be followed.
20. In failing to offer or conduct an internal review, the Council did not act in accordance with the section 45 FOIA Code of Practice. It should now review and improve its compliance with the Code of Practice.

Right of appeal

21. 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

22. 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.
23. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

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