



Morecambe Town Council

Morecambe Town Hall,
Marine Road
Morecambe
Lancashire
LA4 5AF

www.morecambe.gov.uk
clerk@morecambe.gov.uk

Proper Officer: Mr Luke Trevaskis

[REDACTED]

[REDACTED]

Response to Request made under Freedom of Information Act 2000 Reference: 2020/01

Dear [REDACTED],

I am writing to respond to the requests made under the Freedom of Information Act 2000 submitted to the Council on 5 August 2020 and 6 August 2020.

For reference, Morecambe Town Council has incurred a cost of £150.00 in responding to this request.

In your request made under the Freedom of Information Act 2000 you requested for the below information to be supplied by return.

1. "Minutes of the July town council meeting not published on the new Town Council website compiled by Mr Bailey and any other minutes/agendas of meetings not on the website for business in 2020 at todays date".

Response from Morecambe Town Council:

It is confirmed that the authority holds this information. It should be noted that the purpose of Section 21 of the Freedom of Information Act 2000 is to ensure that there is no right of access to information via the FOIA if it is available to the applicant by another route. Section 21 provides an absolute exemption. This means that if the requested information is held by the public authority, and it is reasonably accessible to the applicant by other means, it is not subject to the public interest test.

The draft minutes of the meeting held on 2 July 2020 have not yet been accepted by the Council. However, they are indeed published on the website (www.morecambe.gov.uk) and can be currently found at the below URL (alongside other agendas/minutes from May 2020 onwards):

<https://www.morecambe.gov.uk/council-business/full-council-agendas-minutes-2020-21/>

Furthermore, minutes from May 2019 to March 2020 can be currently found at the below URL:

<https://www.morecambe.gov.uk/council-business/agendas-minutes-2019-20/>

Please be advised the meeting due to take place in April 2020 was cancelled due to Covid-19.

2. "The date of the next town council meeting and any other sub committee meetings including Agendas for August/date of the next town council meeting following the Town Clerk/RFO final day in officer".

Response from Morecambe Town Council:

It is confirmed that the authority holds this information. It should be noted that the purpose of Section 21 of the Freedom of Information Act 2000 is to ensure that there is no right of access to information via FOIA if it is available to the applicant by another route. Section 21 provides an absolute exemption. This means that if the requested information is held by the public authority, and it is reasonably accessible to the applicant by other means, it is not subject to the public interest test.

The Council held a meeting on 6 August 2020.

The Council held a meeting on 3 September 2020.

The Council held a meeting on 1 October 2020.

The next Council meeting is scheduled for 5 November 2020.

The above information is published on the Council's website (www.morecambe.gov.uk), along with agendas for meetings, and can currently be found by visiting the below URL:

<https://www.morecambe.gov.uk/council-business/full-council-agendas-minutes-2020-21/>

3. "Regarding the following casual vacancy on the new MTC website <https://www.morecambe.gov.uk/blog/2020/07/23/poulton-ward-casual-vacancy/> please clarify what the casual vacancy is for and explain how the casual vacancy has arisen (if this is for a replacement member which member has resigned?)"

Response from Morecambe Town Council:

It is confirmed that the authority holds this information. It should be noted that the purpose of Section 21 of the Freedom of Information Act 2000 is to ensure that there is no right of access to information via FOIA if it is available to the applicant by another route. Section 21 provides an absolute exemption. This means that if the requested information is held by the public authority, and it is reasonably accessible to the applicant by other means, it is not subject to the public interest test.

It is stated within the notice of the casual vacancy on the website (www.morecambe.gov.uk) that one vacancy exists for the Poulton Parish of Morecambe Town Council. The notice also clarifies the legislation for this notice (Local Government Act 1972, Section 87, Part 2) which further explains how a vacancy can arise.

The Council can confirm the resignation of Cllr Debbie Jenkins has given rise to this vacancy, which is a vacancy for a member of Morecambe Town Council.

4. "Procurement/recruitment of a Town Clerk/RFO - is this underway and is the process complying with the Town Councils Equal Opportunities Policy which sadly cannot be found as well its Code of Conduct on the new website?"

Response from Morecambe Town Council:

It is confirmed that the authority holds this information. It should be noted that the purpose of Section 21 of the Freedom of Information Act 2000 is to ensure that there is no right of

access to information via FOIA if it is available to the applicant by another route. Section 21 provides an absolute exemption. This means that if the requested information is held by the public authority, and it is reasonably accessible to the applicant by other means, it is not subject to the public interest test.

The Council can confirm the Equal Opportunities Policy and Code of Conduct is published on the website (www.morecambe.gov.uk), currently located on the below URL:

<https://www.morecambe.gov.uk/policies/complaints-policy/>

The Council can confirm it has employed a new Proper Officer and that this appointment has complied with the authority's Equal Opportunities Policy.

5. "Without any Officers how are the Town Council now managing the expenditure of Morecambe residents council tax precept payments and its day to day operations?"

Response from Morecambe Town Council:

The Council can confirm this assertion is incorrect. The Council can confirm there was indeed an officer in place on 5 August 2020 and 6 August 2020. The Council can also confirm expenditure and day-to-day operations are managed by this officer, in line with the policies and procedures of the Council and legislation that governs the authority.

6. "Please clarify the name of the person to whom you have copied in under clerk@morecambe.co.uk. Is this the person currently in office?"

Response from Morecambe Town Council:

The Council can confirm Mr Luke Trevaskis is currently in office fulfilling the duties of the Proper Officer of the Council and can be contacted at clerk@morecambe.gov.uk

7. "Please clarify who at this moment in time is responsible for dealing with the Town Councils communications?"

Response from Morecambe Town Council:

The Council can confirm Mr Luke Trevaskis is currently responsible for dealing with the Town Council's communications.

8. "Who is the Locum Clerk you are in the process of employing and does this appointment comply with the Town Councils equal opportunities policy which has been removed from the new sanitised website produced by Mr Bailey whose appointment I believe failed to comply with the equal opportunities policy which I notified you and your colleagues about before he was permanently employed."

Response from Morecambe Town Council:

The Council can confirm it has employed Mr Luke Trevaskis as Proper Officer and that this appointment has complied with the Council's Equal Opportunities Policy.

9. "Mr Bailey's contract of employment will have contained a notice period, the purpose of which is to procure the appointment of a replacement. What was that and did he work his full notice period?"

Response from Morecambe Town Council:

It is confirmed that the authority appointed a new Proper Officer prior to the conclusion of the employment of the prior Proper Officer. The Council therefore has met its legislative obligations as outlined in Section 151 of the Local Government Act 1972. The Council also therefore considers that it has responded to the concern raised within this request.

It is confirmed that the authority does hold the specific information regarding the notice period of the prior employee. However, it is confirmed that this information is being withheld under section 40(s) of the FOIA. It is confirmed that the Council considers the most relevant data protection principle in this case is the first: that the processing (in this case the disclosure) of personal data would need to be fair and lawful.

The exemption at section 40(2) of the FOIA provides that any third party personal data is exempt if its disclosure would contravene any of the Data Protection Principles set out in Schedule 1 of the Data Protection Act (DPA). Personal data is defined as data which relates to a living individual who can be identified-

- a) from those data, or**
- b) from those data and other information which is in the possession of, or is likely to come into the possession of, the data controller, and includes any expression of opinion about that individual and any indication of the intentions of the data controller or any other person in respect of the individual..."**

The Council considers that the information withheld by the authority is personal data since it relates to the named individual and they could be identified from it. The Council has considered whether disclosure of the information would breach any of the data protection principles. In considering whether disclosure would be fair, the Council balanced the reasonable expectations of the individual, the potential consequences of the disclosure (including whether damage or distress could be caused) and whether there is legitimate public interest in the disclosure of the information in question.

Whether an individual might reasonably expect to have their personal data released depends on a number of factors. These include whether the information relates to an employee in their professional role or to them as individuals. In this case, it is evident that the withheld information relates to the individual's role at the Council and not their private life. However, the Council considers that the individual would have no reasonable expectation that specific details of their employment and working arrangements would be disclosed to the wider world, and considers that disclosure would potentially be an invasion of their privacy and could be distressing. The Council considers that there is little value to the wider public in the withheld information. The Council is satisfied that on balance, the legitimate public interest would not outweigh the interests of the named individual and that it would not be fair to disclose the requested information in this case.

10. "All these decisions regarding the replacement should be incorporated in minutes of the Full Council and the delegated sub committee minutes but sadly there is nothing on the website. Please forward these to me by return or even better publish them on the new expensive website in the public interest no later than the end of tomorrow."

Response from Morecambe Town Council:

It is confirmed that the authority does hold this information.

The above information is published on the Council's website (www.morecambe.gov.uk), along with agendas for meetings, and can currently be found by visiting the below URL:

<https://www.morecambe.gov.uk/council-business/full-council-agendas-minutes-2020-21/>

11. "I wish to record the fact that the practice of issuing minutes of meetings changed when Mr Bailey took up office as acting and permanent TC/RFO. David Croxall usually issued the draft minutes on the website no later than two weeks following the meetings however Mr Bailey issued the draft minutes with the agenda of the next meeting, almost a month later! A practice which created problems for responsible town councillors. Also despite having the expensive AV equipment to do so and issue the recording of meetings on the website Mr Bailey did not once use the equipment. Why not? This neglect creates a serious problem for responsible town councillors who wish to put the public interest first and it creates an opportunity for controversy, corruption and incompetence to thrive and for the non compliant with the code of conduct bullying culture to carry on, and responsible true public servants and whistleblowers like Barbara Barber to be its victims."

Response from Morecambe Town Council:

It is confirmed that the authority does not hold information to respond to this request.

It is also confirmed that the Openness of Local Government Regulations 2014 clarify the law by stating that any person who attends a meeting of a Local Authority Body for the purposes of reporting on the meeting may use any communication method, including the internet, to publish, post or otherwise share the results of a person's reporting activities. The Regulations clarify that reporting includes filming, photography or making an audio recording of the proceedings at a meeting. The provisions relate to any meetings of a Local Authority Body that are open to the press and public to attend. Local Authorities must also make reasonable provision to allow this reporting to take place.

Given the Openness of Local Government Regulations 2014, the Council considers that there is adequate provision for members of the public to make their own recordings of meetings should they be so minded.

The Council also understands that the majority of local authorities do not record their meetings and that this decision in itself does not alter the openness and transparency of the meetings which are available to the public.

12. "If you are not able or willing to be transparent or fully address the reasonable questions I am lodging with you then these become a FOI request that you answer the questions/information requests in my previous e mail you have no addressed (I am sure that the ACTING Monitoring Officer of the City Council who has yet to return? will be able to assist you) as well as those above and also provide me with a draft contract/terms of engagement of the Locum Town Clerk & Responsible Financial Officer, the "Proper Officer" of the Town Council by return."

Response from Morecambe Town Council:

It is confirmed that the authority holds this information. It is confirmed that this information is being withheld under section 40(s) of the FOIA. It is confirmed that the Council considers the most relevant data protection principle in this case is the first: that the processing (in this case the disclosure) of personal data would need to be fair and lawful.

The exemption at section 40(2) of the FOIA provides that any third party personal data is exempt if its disclosure would contravene any of the Data Protection Principles set out in Schedule 1 of the Data Protection Act (DPA). Personal data is defined as data which relates to a living individual who can be identified-

- a) from those data, or
- b) from those data and other information which is in the possession of, or is likely to come into the possession of, the data controller, and includes any expression of opinion about that individual and any indication of the intentions of the data controller or any other person in respect of the individual..."

The Council considers that the information withheld by the authority is personal data since it relates to the named individual and they could be identified from it. The Council has considered whether disclosure of the information would breach any of the data protection principles. In considering whether disclosure would be fair, the Council balanced the reasonable expectations of the individual, the potential consequences of the disclosure (including whether damage or distress could be caused) and whether there is legitimate public interest in the disclosure of the information in question.

Whether an individual might reasonably expect to have their personal data released depends on a number of factors. These include whether the information relates to an employee in their professional role or to them as individuals. In this case, it is evident that the withheld information relates to the individual's role at the Council and not their private life. However, the Council considers that the individual would have no reasonable expectation that specific details of their employment and working arrangements would be disclosed to the wider world, and considers that disclosure would potentially be an invasion of their privacy and could be distressing. The Council considers that there is little value to the wider public in the withheld information. The Council is satisfied that on balance, the legitimate public interest would not outweigh the interests of the named individual and that it would not be fair to disclose the requested information in this case.

In the request made under the Freedom of Information Act 2000, you also expressed the below comments.

“Further to my e mail below for the record I have received the automate response below from the “ACTING” Monitoring Officer of the City Council which sadly fails to notify the customer of when a top ranking highly paid City Council Officer returns to officer!

“I have received one response from a Town and City Councillor/member forwarding an article from the Lancaster Guardian dated 23/7/ with the comment “enclosed page from the Lancaster Guardian 23.7.20. For your digital library in case you need to use it in the future” which fails to address the majority of my reasonable questions concerning public expenditure and management of public monies which as a customer I contribute to (please note the fact that some City Council Officers are responsible for monitoring Parish Councils, advising and supporting them and have a standards system which is funded by City Council taxpayers). I find the response disrespectful and not one that you would associate with a public servant trustee. Could the ACTING Monitoring Officers comment on that comment and the negative response as well as our two MP's. Out of the 22 Town Councillors who are contactable by the e mails on the Town Councils new website only one response has been received! I do hope that our marvellous local independent press who at all times act in the public interest as per their professional code of conduct take note of that fact.

“I am notifying you that until I receive a satisfactory response to these questions and other matters pending and until Lancaster City Council and Morecambe Town Council adhere to its code of conduct, constitution, and customer service standards I will be making no further council tax payments to the City Council , County Council and Police as I do not wish to be responsible for funding authorities/supposedly public servant trustees who in my opinion are led and managed by corrupt and incompetent top ranking Officers and members who appoint and support them.

“It is of serious concern that there is no information about this in the local press or on the Town Councils new website.

“I welcome individual responses from the elected members/public servants of the Town Council blind copied into this e mail whose intention is to serve the town and its residents, first and foremost, at all times.

“Sadly as the evidence shows you have failed to address my reasonable questions however having monitored such an appalling performing authority for almost ten years it is consistent with

the town councils culture of engagement with the majority of the public whom have no political or city council association other than funding it.”

“It would be help accountability and transparency if the Town Council issued a press statement fully informing the town. its residents and those who fund it how it is currently managing the expenditure of thousands of pounds of public money.”

“With respect until those reasonable questions are addressed further council tax payments will not be made by me.”

Response from Morecambe Town Council:

The authority notes these comments.

Morecambe Town Council will consider appeals, referrals or complaints in respect of your Freedom of Information Act 2000 request and you must submit these in writing to clerk@morecambe.gov.uk within twenty days of receiving your response.

If you remain dissatisfied you may also apply to the Information Commissioner for a decision about whether the request for information has been dealt with in accordance with the Freedom of Information Act. The Information Commissioner’s website is www.ico.gov.uk and their postal address and telephone number is as follows:

Information Commissioner’s Officer
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Telephone: 0303 123 1113

Yours sincerely,



Mr Luke Trevaskis
Proper Officer
Morecambe Town Council