

Internal Review of Freedom of Information disclosure to Mr N. Randle concerning Rag Lane

Review conducted by Cllr M. Tomkinson & Cllr A. Billington

Background

Extensive FOI request received on 29th July 2022 covering multiple areas over a long period of time with information requested back to 1974.

The key areas of request were:

- All Correspondence, Meeting Minutes, Officer Reports, Notes of Councillor Discussions, emails both among members and between members and the Clerk and other records referring to Rag Lane, Yarcombe since 1974.
- Specifically all Correspondence with Devon County Council Highways Department in connection with Rag Lane during that period
- Specifically all minutes of meetings background notes and reports relating to decisions by Yarcombe Parish Council in respect of Rag Lane in the past 2 years including;
 - o Background and all Council records including voting records relating to the decision to refer an anonymous complaint to the County Highways department in April 2021
 - o Background and all Council records including voting records relating to the Council's change of stance from neutral in April 2021, to it actively seeking the implementation of enforcement action by the County Council against Yarcombe residents in June 2022. This to include its reasoning and the background to the Council's decision to ignore advice received from the Area Traffic Officer.
 - o Background and all council records including voting records relating to the Council's decision to reject a suggestion from County Highways that Rag Lane be reclassified as a public Bridalway. This to include records of all community consultations conducted in order to establish the community views on this proposal and steps taken by the Council to inform itself on the background to issues raised
- Specifically, any correspondence, records or other information referring to us by name

The initial response based on extensive searching, collation and coordination with Devon Council was produced by Cllr S. Horner and Parish Clerk D. Frost. A total of 103 pages of information were provided to the requestor within the required time frame.

On 15/9/22 and 23/9/22 e-mails were sent to the Parish Clerk voicing dissatisfaction with the response received and making multiple requests for specific information.

Despite the maximum allowable expenditure of £450 for a response to a FOI already being exceeded (based on the notional rate of £25 per hour), the advice from the Information Commissioner's Officer directed that an internal review should be undertaken.

Scope and process of review

Cllrs M. Tomkinson and A. Billington were appointed as Internal Reviewers by an extraordinary meeting of the Yarcombe Parish Council on Monday 24th October 2022.

Collectively Cllrs Tomkinson and Billington undertook the following:

- Discussion with Cllr Horner regarding the process used to provide information for the initial FOI request.
- Review of all information provided in response to the initial FOI request.
- A detailed search of Cllr S. Horner's home computer which is used for his Parish Council business. E-mail and files were searched for information relevant to the initial and subsequent FOI requests. All relevant identified information was saved as a PDF file. There was no additional written or printed information available.
- A search of the Parish Clerk's web-mail account which is handed on from clerk to clerk. Again, any e-mails and files relevant to either of the requestor's requirements were sought. All relevant identified information was saved as a PDF file. There was no additional written or printed information available.
- A detailed search of the Parish Council filing cabinet was performed to identify any relevant documents.
- Parish Councillors were contacted and asked if they held any additional information in any form that was relevant to the areas specified by the requestor.
- Former Parish Clerk S.J. Martin was contacted and asked to provide any additional information in any form that was relevant to the areas specified by the requestor. She responded that all information was held electronically and that had been passed to the current clerk. She confirmed that she held no additional written or printed information available.
- Retired Cllr C. Stone was contacted and asked to provide any additional information in any form that was relevant to the areas specified by the requestor. He has provided some additional information in the form a draft e-mail.
- All identified e-mails and documents were compared to those already released under the initial FOI response and these duplicates were removed.
- The files containing information not previously released, but which contained information originating from Devon County Council were sent to the relevant department of Devon County Council for review.

Findings

The response to the initial FOI request appears to have been made in good faith, with all documents of key significance being released in the initial response. However, the level of

detail included was hampered by a number of factors. These include the Parish Clerk and Chairman relying on fairly antiquated computers and software which limited their ability to process the large number documents involved.

The redactions made by Yacombe Parish Council to the initial FOI release were reviewed and found to be appropriate and in accordance with the Data Protection Act.

Yacombe Parish Council had limited experience of complying with complex FOI requests, especially when requiring co-ordination with Devon County Council, so there was a learning curve for all those involved, which was especially challenging when operating within a tight time-frame.

Devon Highways Department made several requests that the Rag Lane situation was handled confidentially, this limited the amount of official documentation produced during the initial stages. When he took over as Chairman, Cllr Horner pushed that Rag Lane should be discussed by the full Parish Council under Part B rules.

Response to specific points raised

In an e-mail to the parish clerk on 15/9/22 following receipt of the FOI response, the following points were raised:

Point No.	Request / Complaint	Response	Action
1.	I note that this has been provided in paper form although I indicated that I would accept disclosure by email. Please could you kindly clarify why it was felt necessary to print it out rather than emailing information all of which originated in electronic form.	Original FOI request from Mr N. Randle on 29/7/22 specified "We require this information to be delivered to us by e-mail or mail within the statutory deadline....."	No relevant complaint to answer
2.	You have provided hard copies of the minutes of Council meetings all of which appear on the Council website. This includes minutes of meetings of November 2019, January 2020, February 2020, March 2020, May 2020, June2020, September 2020, October 2020, November 2020, and January 2021. I have scanned these minutes and cannot find any reference to matters that I raised in my FOI request. I was seeking information in connection with Rag Lane and the apparently changing position of the Council during the period since August 2020. Please could you kindly clarify why this information has been included?	Original request stated four times that "Background and all council records including..." were required. Given the amount of work created by the FOI request and a desire to include all relevant information, the approach taken was to include all Parish Council minutes, unfiltered over the relevant time period, as it was preferable to be over inclusive rather than make an inadvertent omission.	
3.	You have indicated that there is <u>relevant information that you have not released</u> citing the Data protection Act. Please could you kindly clarify the precise provisions of the act that you are relying on and confirm whether or not the information <u>not released</u> are	Redactions made were as we are not obliged to provide information that is the personal information of another person if releasing it would contravene any of the provisions of the Data Protection Act 2018. Redactions were	

	emails from individual members of the council which refer to Rag Lane or which refer specifically to me or to my wife Wendy.	made by both Yarcombe Parish Council and Devon County Council in line with Regulations 5(3), 12(3) and 13 of the Environmental Information Regulations 2004. We can confirm that no complete documents were withheld by Yarcombe Parish Council and would comment that the majority of redactions were made by Devon County Council.	
4.	I note that no information has been provided in respect of the Extraordinary meeting held in August 2022. This meeting has been referred to by the Council Chairman in a circular to all Yarcombe residents and he specifically stated that this included discussion of Rag Lane. Please can you confirm why no information has been provided in respect of this meeting.	The FOI request was made on 29/7/22, this meeting took place afterwards so was not considered part of that request.	No relevant complaint to answer
5.	Finally please can you <u>formally confirm</u> that there is no other information in the possession of the Council which is relevant to my request and that has not been disclosed at this time.	Following extensive and time-consuming searches, some additional information related to the criteria specified by the requestor have been identified. This information is currently being reviewed by Devon County Council and will be made available to the requestor as soon as practical.	

Subsequently a complaint made on 23/9/22 which triggered the internal review, raised the following points:

Point No.	Request / Complaint	Response	Action
1.	Steve Horner refers in an email of 20 March 2022 to an email from Clive Stone to Highways, dated 6th January 2021. Please provide a copy of that email	All relevant information which this review was able to identify will be provided following review by Devon County Council.	
2.	Steve Horner refers in an email of 20 March 2022 to an email of 26th October 2021 passed to him by Sarah Jane. Please provide a copy of the email	All relevant information which this review was able to identify will be provided following review by Devon County Council.	
3.	On 12th March 2021 Sarah Jane sent an email to Steve Horner reminding him that I had asked to be kept informed of any correspondence on the subject of my property and Rag Lane in an email that I had sent early in 2021. Please provide any documentation which explains why this request was not respected	All relevant information which this review was able to identify will be provided following review by Devon County Council.	
4.	In an email of 16 November 2020 Steve Horner mentions an email debate of this issue by a Committee. He indicates that the discussion was held by email due to lockdown. Please provide copies of all the email discussions if not already provided. If such a committee exists please could you	All relevant information which this review was able to identify will be provided following review by Devon County Council.	

	provide the Council minute containing the resolution that appointed it and details of its membership and terms of reference and any authority delegated to it. Please also provide copies of minutes containing its decisions and copies of minutes of Council meetings to which it reported.	
5.	On 12th January 2021 the Parish Council sent an Email to Highways giving Notice under section 56 of the Highways act 1980. Please provide a copy of the minute of the meeting where it was resolved that this notice should be given.	All relevant information which this review was able to identify will be provided following review by Devon County Council.
6.	On 30th July 2021 in an email from YPC to Highways, a statement was made commencing "Yarcombe Parish Council wish it to be known..... Please provide a copy of the minute of the meeting where it was resolved that this statement should be sent.	All relevant information which this review was able to identify will be provided following review by Devon County Council.
7.	On 23rd July 2021 in an email exchange between Steve Horner to Clive Stone there is a discussion about taking steps to minimise information disclosable in an FOI request. Please can you provide all documentation relating to this and any other attempts to avoid disclosure in an FOI request relating to this matter.	All relevant information which this review was able to identify will be provided following review by Devon County Council.
8.	In that same email exchange on 23rd July 2021 Steve Horner mentions "heading off a request to downgrade Rag Lane which could prove "embarrassing." Please can you provide documentation relating to all or <u>any</u> attempts in the past 2 years to ascertain the wishes of the community in connection with the reclassification of Rag lane. Please can you also provide copies of minutes of <u>any meeting</u> including the potentially unlawful meeting of 15th August where the reasons for avoiding a reclassification, regularly communicated to highways, was discussed.	All relevant information which this review was able to identify will be provided following review by Devon County Council.
9.	Clive Stone and in his turn Steve Horner have written to Highways on a number of occasions seeking enforcement action against Wendy and me. They have done this ostensibly in their capacity as Chairmen of the Council. Please provide a copy of the minute delegating authority from the Council to them as Chairmen to write to highways and to seek enforcement action against us.	All relevant information which this review was able to identify will be provided following review by Devon County Council.
10.	Finally we note that so far you have not been able to provide any records of complaints from the public made to the council about our gabions since they were erected. If any complaints have been received please provide copies, suitably redacted if necessary.	All relevant information which this review was able to identify will be provided following review by Devon County Council. It should be noted that complaints were not made in writing and the complainants requested to remain anonymous.

Recommendations

Establish a pathway for a collective approach to dealing with future complex FOI requests which would involve more councillors to spread the amount of work involved in producing a response.

Examine options to upgrade the IT capabilities of the Chairman and Clerk to be able to electronically manage large numbers of documents, and related to the point above, involve those Councillors with strong IT skills early in the process.

Implement a centralised, managed e-mail system for Parish Councillors to facilitate retrieval of official communications in the future.