



S Smith

By email only to: request-3125-1caad4c5@whatdotheyknow.com
& request-8723-fb271ba3@whatdotheyknow.com

Legal and Democratic Services
Sessions House
County Hall
Maidstone
Kent ME14 1XQ
DX: 123693 Maidstone 6
www.kent.gov.uk/legal

Direct Dial Ext: (01622) 694416
Fax Number: (01622) 694402
E-mail address: wendy.morse@kent.gov.uk
Ask for: Wendy Morse
Your Ref: Free Masons
Our Ref: FOI/09/210 & FOI/08/698
Date: 7th May 2009

Dear S. Smith,

Re: FOI/09/210 & FOI/08/698 Complaint concerning the handling of two requests for information made under the Freedom of Information Act 2000 ("FOIA")

I write following your email 14th April 2009, complaining about the response received to two of your FOIA requests. Following receipt of any such complaint it is Council policy that the handling of your FOIA enquiry and the response you receive is looked at by an independent reviewer, and it is in this context that I have been instructed. The remit of my review is to look at whether or not the Council has complied with its obligations under the FOIA.

The entitlement under the FOIA

I thought it might assist if I set out a basic summary of the entitlement to information under the FOIA. A person may submit a written request for information and is then entitled to be advised in writing by the Council whether it holds information of the description specified in the request and if that is the case to have that information communicated to him unless it would exceed the appropriate cost limit or one of the exemptions provided in FOIA applies.

FOI/09/698 Your first FOIA request re Councillors and subsequent follow up queries:

You emailed on 20th September and asked five questions, you were sent an emailed response on 17th October 2008. I have set these questions out below along with the response you were sent.

- 1) whether Councillors are required to state whether or not they are members of the Free Masons,

Geoff Wild LL.B, Dip.LG, Solicitor
Director of Law & Governance

CHIEF EXECUTIVE'S DEPARTMENT



You were advised that "Elected Members must Register and Declare an interest as a Freemason if their membership includes membership of the charitable arm of what would otherwise be a non-charitable association, i.e. the Grand Charity, unless they have opted out of such membership."

2) the names of all Council members (presumably those who have declared such an interest),

You were advised that the register of interests for each of the 84 County Councillors is accessible to you at <http://www.kent.gov.uk/council-and-democracy/councillors/Councillor-Listing.htm?Party=All> . To find this information you click on each Councillors' name: there you will find an Annual report (which includes employment information), notice of member's registrable interests (which would include any membership of relevant parts of the Free Masons) and related party transactions. As this information is available to you a list of names was not provided (Section 21 FOIA).

3) whether this was a requirement on their declaration of interest form,

You were advised that Members have to register and declare an interest as a Freemason if this membership includes membership of any charitable arm of what would otherwise be a non-charitable association.

4) whether Councillors have to state their occupation or whether they do not work, and

You were advised that the register of interests which are available via the website for each councillor include any employment or business interests.

5) the penalty for not complying (presumably for non-compliance in declaring interests).

This part of your query was not answered for which I apologise on behalf of the Council. If a Councillor fails to comply with a requirement of the Code of Conduct (which could include the non-declaration of an interest) there are possible sanctions which would depend upon the circumstances and consequences of the non-declaration. Within Kent County Council if you wish to complain about the conduct of a Councillor, for example if you believe that they have failed to declare an interest and you believe that interest may have had a bearing on a decision of the Council in which they were involved then you can complain to the Standards Committee. The Committee will then decide what action should be taken in accordance with the powers and sanctions available to it as contained in the Local Authorities (Code of Conduct) (Local Determination) Regulations 2003 (as amended), this could therefore result in a number of things. For more information on the Code of Conduct and complaints please see the KCC website at <http://www.kent.gov.uk/council-and-democracy/about-the-council/contact-us/councillor-complaints.htm> or the Standards Board website at <http://www.standardsboard.gov.uk/Makingacomplaint/Whathappenstoyourcomplaint/> , or if you wish to view a copy of the regulations these can be accessed at www.statutelaw.gov.uk or www.opsi.gov.uk .

On 7th March you emailed asking which clause of the code of conduct applies. This was interpreted as being part of your second FOI request (FOI/09/210) which was current at that time and hence this was not dealt with as part of this request. In answer to your query now the part of the Code of Conduct for Elected Members (which forms part of the Council's Constitution available at <http://www.kent.gov.uk/publications/council-and-democracy/kcc-constitution.htm>) that deals with elected members' personal interests is part 2 paragraphs 8 & 10. In future, to avoid any confusion, it would be helpful if you could include the FOI reference given to your request in any correspondence you send the Council to make sure it can be identified and dealt with correctly.

On 14th April you wrote to complain that the response you received did not answer your query. I believe the two outstanding queries at that time were what the sanctions are and which part of the code applied. Both these queries are now answered above, as explained the query regarding which part applied was looked at as part of FOI/09/210 your second request.

FOI/09/210 Your second FOIA request and subsequent queries:

On 3rd March 2009 you sent a similar but separate request this time in connection with members of staff of the Council as opposed to Councillors and their declarations and membership of the Free Masons. This was acknowledged on 4th March 2009 and a response was sent to you on 14th April 2009. I have set out below the questions raised and response given:

- 1) Whether any staff (Directors/ officers, etc) are members of the Free Masons

Please see the response under question 3 below.

- 2) Whether staff are required to declare their membership on their declarations of interest form

You were advised that Kent County Council's Code of Conduct requests that staff should "declare to an appropriate senior manager, membership of any organisation, lodge, chapter, society, trust or regular gathering or meeting which is not open to members of the public who are not members of that lodge, chapter, society, trust or requires secrecy about its rules, membership or conduct".

- 3) The names of all staff who are members of the Free Masons

You were advised regarding questions 1 & 3 that Personnel do not hold central records of all KCC employee declarations of personal interests. The senior managers declarations of interest are held centrally and updated annually and no senior managers have declared such an interest.

Information regarding other members of staff and their membership would be held locally by line managers and therefore it would cost more than the appropriate limit of £450 to extrapolate this information. Therefore the Council is not obliged to comply with this part of your request in accordance with section 12 FOIA. Having reviewed the information available I am satisfied that the cost would exceed the appropriate limit as the information is held locally and therefore because of the large number of managers KCC has it would take a large amount of time to obtain and collate this information.

- 4) Any penalty for non-compliance (presumably for not declaring membership)

You were advised that a failure to disclose such interests could result in disciplinary sanctions.

On 7th March you then emailed asking which clause of the code of conduct applies. The response sent to you on 14th April did not advise which specific clause of the Code of Conduct applied but instead set out the relevant extract of the Code. This extract appears in the staff handbook entitled the Blue Book in section L on Managing Performance & Conduct in sub paragraph H. The relevant extract is attached for your information.

On 14th April you wrote back and complained that the response did not answer the queries raised in your first request (FOI/08/698 outlined above) and the further clarification sought in your email of 7th February 2009 (I believe you meant March). These outstanding queries are now dealt with above. You also asked a further subsequent query about whether or not Mr. Paul Carter the

Leader of KCC is a member of the Free Masons. I can confirm that Mr. Carter (in accordance with his publicly available declaration of interests) is not a member of the Free Masons.

The outcome of my review of the handling of your requests:

There were a couple of outstanding queries that were not dealt with in the responses sent to you (as detailed above) for which I apologise on behalf of the Council. This was in part due to the confusion over which request one of your subsequent queries related to. However for the most part your requests have been answered as fully as possible and if you have not been given the information sought you have been advised of where you can obtain this. I am therefore sorry that you felt the need to complain about the handling of your requests. With regards to advising which employees have declared membership of the Free Masons I believe that providing this information (for all staff other than senior managers) would exceed the appropriate limit of £450 and therefore section 12 FOIA rightly applies.

I trust that this review letter fully addresses any issues you had with the handling of your requests, if you should still have any unanswered questions then please do not hesitate to contact me. If you are unhappy with the decision taken by the Council in this review you can appeal to the Information Commissioner who oversees compliance with the FOIA. Details of what you need to do, should you wish to pursue this course of action, are available from the Information Commissioner's website at http://www.ico.gov.uk/freedom_of_information.aspx

Yours sincerely,



Wendy Morse
for Director of Law & Governance

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