

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 16 January 2019

Public Authority: Ramsey Town Council
Address: Ramsey Abbey Estate Offices
7 Church Green
Ramsey
Cambridgeshire
PE26 1DW

Decision (including any steps ordered)

1. The complainant has requested hand written notes or voice recordings of an annual town council meeting. Ramsey Town Council has published the electronic minutes of the meeting however it states that it does not hold information in the form of the requested notes or recordings.
 2. The Commissioner's decision is, on the balance of probabilities, that Ramsey Town Council does not hold information in-scope of the request.
 3. The Commissioner does not require the council to take any steps.
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Request and response

4. On 14 May 2018, the complainant wrote to Ramsey Town Council and requested information in the following terms:

"Records management is vital to the delivery of services in an orderly, efficient, and accountable manner. Effective records management will help ensure the right information at the right time to make the right decisions at any Ramsey Town Council Meeting.

Would you please email or let me collect copies of your handwritten or voice recorded records created during the Annual Town Council Meeting of Ramsey Town Council held on Thursday 10 May 2010 at 7.00 p.m., at 7 Church Green, Ramsey. The Agenda for that Meeting was published on Ramsey Town Council's website sometime before that Meeting.

This information that should be easily accessible to support your future published version of the Annual Town Council Meeting of Ramsey Town Council on your website held on Thursday 10 May 2010 at 7.00 p.m., at 7 Church Green, Ramsey."*

* Correspondence between the council and the complainant confirms that the meeting was held on Thursday 10 May 2018.

5. The council responded on 15 May 2018 to confirm that the minutes were in the process of being typed and would be published to the website shortly. The council stated that it would also provide the complainant with a copy directly. The complainant responded that this was not what had been requested: *"my request was clear and unambiguous I requested a copy of the notes made by the Town Clerk or his deputy or any other councillor who hand wrote or electronically recorded the Minutes."*
6. The complainant also wrote to the Mayor of Ramsey on 15 May 2018 raising concerns about the meeting and repeating the request for the *"unredacted handwritten minutes."*
7. The council responded on 16 May 2018 stating that the hand written notes are an aide memoire only to enable the minutes to be compiled. The council reiterated that once completed a typed copy would be sent.
8. The council reports that it provided the complainant with a copy of the draft typed minutes sometime around the 16 May 2018. The minutes were hand delivered through the complainant's door with a handwritten

covering note. As such the council do not hold an electronic version to absolutely confirm the date.

9. On 10 July 2018 the complainant requested a review of his information request for the hand-written notes stating: *"I repeat that I am looking to receive a copy of your or the Mayors contemporaneous hand written notes of the Full Town Council Meeting held on Thursday 10 May 2018. Would you kindly arrange to review my request and provide me with the Council's Final Response"*
10. The council provided an internal review response on 10 July 2018. It stated that no information is held in terms of the notes of the Mayor and that any *"jottings left by Councillors are shredded after the meetings."* It confirmed that the clerks hand written notes are purely *"an aide memoire to enable [the clerk] to compile the minutes."* It also cited section 22 – information intended for future publication as the reason for withholding the information.
11. During the course of the investigation the council withdrew its reliance on section 22 and confirmed to the Commissioner that its position is that the information is not held.

Scope of the case

12. The complainant contacted the Commissioner on 10 July 2018 to complain about the way his request for information had been handled. Specifically that the council is withholding the requested information.
13. During the course of the investigation the council confirmed that the handwritten notes were destroyed on 14 June 2018, and therefore no information is held within the scope of the information request.
14. The Commissioner therefore considers the scope of the case to be to establish if the council complied with section 1 of the FOIA and whether, on the balance of probabilities, the council holds the information described in the request.

Reasons for decision

Section 1 of the FOIA – general right of access

15. Section 1 of the FOIA states that any person making a request for information to a public authority is entitled to be informed in writing by

the public authority whether it holds information within the scope of the request, and if so, to have that information communicated to him.

16. In this case, the complainant believes that there is a difference between the information contained in the clerks hand-written notes created at the Town Council meeting of Thursday 10 May 2018 ('the meeting') and the subsequently published minutes of the meeting. The complainant's position is therefore that the council held further information at the time of the request, which specifically answered his request, being the hand-written notes.
17. In cases where there is some dispute about the amount of information located by a public authority and the amount of information that a complainant believes might be held, the Commissioner, following the lead of a number of First-tier Tribunal decisions, applies the civil standard of the balance of probabilities. In essence, the Commissioner will determine whether it is likely, or unlikely, that the public authority holds information relevant to the complainant's request.
18. The Commissioner will consider the complainant's evidence and arguments. She will also consider the actions taken by the public authority to check whether the information is held and any other reasons offered by the public authority to explain why the information is not held. She will also consider any reason why it is inherently likely or unlikely that information is not held. For clarity, the Commissioner is not expected to prove categorically whether the information is held, she is only required to make a judgement on whether the information is held on the civil standard of proof of the balance of probabilities.

The complainant's position

19. The complainant is specifically concerned about an item of "*urgent business*" that was added to the agenda during the course of the meeting by the Town Mayor. It was a discussion regarding an FOIA request from the complainant. The minutes state "*Due to the repetitive nature of the requests and disproportionate amount of staff time being taken it was proposed that it be treated as a persistent and/or vexatious complaint and that the individual be written to informing him that no further replies would be made to this particular request.*"
20. The complainant advises that he "*did receive a copy of the typed published minutes of the meeting which extremely reliable sources inform me is materially different from the voiced and hand written notes of the meeting held on 10 May 2018.*"

21. The complainant stated that *"I am requesting the Information Commissioner to decide if citizens of the United Kingdom are entitled to receive hand written copies of Minutes of the Public Annual Full Town Council Meetings of Town or Parish Councils prior to them being published to enable a citizen to challenge them for accuracy in writing rather than attending the next Town Council Meeting."*

The Council's position

22. The council states that the meeting notes written by the clerk are cryptic and non-eligible to other readers. They are an aide memoir to enable the clerk to write up the minutes, often scribbled over the agenda and other pieces of paper. It stated that even the clerk's assistant would find them an unusable input for typing up such minutes.
23. The council confirmed that it has a policy of destroying the hand written notes once the typed minutes are agreed. In this instance the draft minutes were published to the website on 8 June 2018, they were then ratified at the council meeting of 14 June 2018 and the notes were destroyed on that date.
24. The council has stated that it does not hold recordings of council meetings, therefore no information is held in this regard.
25. The council's position, therefore, is that it does not hold any information within the scope of the request.

The Commissioner's conclusion

26. The Commissioner notes that public authorities are expected to have good records management practices that ensure records are routinely disposed of.
27. This is of relevance to section 1(4) of the FOIA, which states:
- " The information-*
- (a) in respect of which the applicant is to be informed under subsection (1)(a), or*
- (b) which is to be communicated under subsection (1)(b),*
- is the information in question held at the time when the request is received, except that account may be taken of any amendment or deletion made between that time and the time when the information is to be communicated under subsection (1)(b), being an amendment or*

deletion that would have been made regardless of the receipt of the request

28. The Commissioner notes that the information request was received on 14 May 2018 and that the council destroyed the handwritten notes on 14 June 2018, after the typed minutes were ratified which is in line with its usual practice.
29. The Commissioner is satisfied that the council's destruction of the handwritten notes in favour of the ratified minutes is '*an amendment or deletion that would have been made regardless of the receipt of the request.*' She finds therefore that the council operated within the requirements of section 1(4).
30. Having concluded that the council could rightfully destroy the handwritten notes in line with the requirements of section 1(4) as well as being in accordance with good records management practice, the Commissioner must determine whether, on the balance of probabilities, the council holds any information within the scope of the request.
31. Due to the circumstances of this case, being that the council have confirmed that the handwritten notes have been destroyed, the Commissioner is satisfied that searches of records held by the council would not retrieve further information.
32. The Commissioner has already established that the information was initially held in handwritten format and destroyed when converted to an electronic record. Although the council do not have a record of the destruction, the Commissioner is persuaded that it was carried out in line with regular working practice.
33. The Commissioner is satisfied that there is no statutory requirement for the council to hold the initial hand-written notes of the meeting as the typed minutes have been ratified and published.
34. The council have stated that they do not hold voice recordings of council meetings and that that that they have no business or statutory purpose to do so. The Commissioner has found no evidence to the contrary of this statement.
35. The Commissioner is satisfied, on the balance of probabilities, that the council holds no information in-scope of the request.
36. The Commissioner therefore finds that the council complied with section 1 of the FOIA.

Right of appeal

37. 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@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

38. 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.
39. 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

Andrew White
Group Manager
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Wycliffe House
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