

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 27 May 2020

**Public Authority:** Edith Weston Parish Council

**Address:** [ewpcclerk@gmail.com](mailto:ewpcclerk@gmail.com)

### Decision (including any steps ordered)

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1. The complainant has requested information with regards to how a reserve fund will be spent. Edith Weston Parish Council (the council) confirmed, after its internal review, that it does not hold the requested information.
2. The Commissioner's decision is that on the balance of probabilities, the information is not held.
3. The Commissioner does not require the council to take any steps.

### Request and response

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4. On 30 July 2019 the complainant made the following information request to the council:

*"To provide information in respect of the planned distribution of the reserve fund of 45K. What is the need and your planned 3 year plan to disperse this precept accumulation."*

The council responded on the 23 August 2019 giving an overview of its plans without providing any recorded information.

5. The complainant contacted the Commissioner on the 27 August 2019 dissatisfied with the council's response.
6. The Commissioner advised the complainant that he would firstly need to request that the council conduct an internal review before she can consider any complaint further.

7. The complainant requested an internal review on 13 September 2019 as he did not consider the council had provided details of the reserve fund and how it is to be spent.
8. The council provided its internal review, noting the complainant's statement in his internal review request that "*there is no evidence of the reason for the reserve & how it to be spent to the good of the parish*". The council responded advising that no recorded information is held.

## Scope of the case

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9. The complainant contacted the Commissioner further to complain about the council not providing the information requested.
10. The Commissioner considers the scope of the case is to determine whether the council holds the requested information, specifically the complainant's internal review request where he clarifies what he is after, that being:

*"The specific reasons why I am dissatisfied is that there is no evidence of the reason for the reserve & how it to be spent to the good of the parish."*

## Reasons for decision

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### Section 1 of the FOIA – Information held/ not held

11. 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.
12. Where there is some dispute between the amount of information identified by a public authority and the amount of information that a complainant believes may be held, the Commissioner, following the lead of a number of First-tier Tribunal decisions must decide whether, on the civil standard of the balance of probabilities, the public authority holds any information which falls within the scope of the request (or was held at the time of the request).
13. The council has responded to the Commissioner's enquiries explaining that the records that the council holds on its finances and budget have already been shared with the complainant previously and they are also available in the public domain.

14. It has also stated that the records of all decision making processes in spending money are also in the public domain and all minutes are kept in both electronic and paper form.
15. With specific regard to the complainant wanting to know how the council plans on spending its reserve of money, the council has told the Commissioner that it does not hold this information.
16. The council has advised the Commissioner that it does not hold this information as this money is for use in an emergency or for reactive costs that may be incurred by the council. The council, therefore, simply has no way of predicting what, if any, of this money might be spent on in the future.
17. It is a reserve of money that can be used for any unexpected costs and so it is unable to 'plan' on what this reserve of money will be spent on, if even spent at all.
18. The council has also told the Commissioner that it is best practice within all parish councils to hold at least two years running costs in reserve. Although it is also best practice to have a three year plan, there is no legal requirement to do so and the council has stated that its annual budget fulfils these financial requirements.
19. The council has told the Commissioner that the state of the council's finances are then discussed at every monthly council meeting where judgements are made on future requirements and any necessary expenditure for the following month is authorised. But there is no plan held for what the reserve will be used for. It has not, therefore been able to search for something that it knows does not exist.
20. The explanation provided by the council seems to the Commissioner to be more plausible than not as to why the information is not held. That being the reserve being held for 'unknown eventualities' and therefore no set plan for what it will be spent on and therefore why it is unable to record this.
21. The council may discuss in their monthly meetings if any of the money is going to be required for the next month in order to be signed off, and these meetings are made publicly available once they have been held.
22. The Commissioner's role is not to determine whether the council should hold the information requested, her role is to determine whether it does hold the information or not.
23. Therefore, based on the above, the Commissioner is satisfied that on the balance of probabilities that the council does not hold the information requested.

## Right of appeal

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24. 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@justice.gov.uk](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

25. 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.
26. 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**  
**Head of FOI and Casework Appeals**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**