

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 26 September 2013

Public Authority: Goring Parish Council
Address: Old Jubilee Fire Station
Red Cross Road
Goring
Reading
RG8 9HG

Decision (including any steps ordered)

1. The complainant requested information from Goring Parish Council ("the council") about a "not for publication" minute from a council meeting on 5 March 2012. The council stated that it did not hold the requested information. This was not accepted by the complainant, who asked the Commissioner to investigate whether the council holds the information.
2. The Commissioner's decision is that, on the balance of probabilities, the requested information is not held.
3. The Commissioner does not require any steps to be taken.

Request and response

4. On 8 February 2013, the complainant wrote to the council and requested the following information:

"Background

This information request concerns the "not for publication" minute of the council meeting on 5 March 2012, minute number 12/177.2.

Information Required

1. *Identity of the person responsible for taking notes or minutes of that part of the meeting.*
2. *Copy of the notes taken.*
3. *Identities of the originator, proposer and seconder of item (3) adopted at the meeting.*
4. *Text of the original motion for item (3)*

5. Identities of proposers and seconders of any amendments to the motion for item (3) and text of the amendment proposed."

5. The council contacted the complainant on 25 February 2013 to advise that it did not hold the requested information for parts 2,4, and 5. The council also advised that some information requested was not covered by the FOIA, namely parts 1, 3 and part of 5 (which asked for the identities of individuals).
6. The complainant requested an internal review on 25 February 2013, which was then provided by the council on 12 March 2013. The council upheld its position.

Scope of the case

7. The complainant contacted the Commissioner on 28 March 2013 to complain about the way his request for information had been handled. He also queried whether the council was correct to suggest that part of the information requested wasn't covered by the FOIA.
8. The Commissioner informed the council that all of the request was a valid request for information under the FOIA, and asked the council to provide the complainant with a valid response to parts 1, 3 and part of 5.
9. The council subsequently provided a response to the complainant on 15 August 2013 which addressed these parts. It explained that the identities that were requested were not recorded.
10. The Commissioner considers that the scope of this case is the determination of whether the council is likely to hold the requested information in relation to all five parts of the complainant's request.

Reasons for decision

Section 1(1)

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 of the description specified in the request, and if that is the case, to have that information communicated to him.

The Commissioner's investigation

12. On 23 July 2013, the Commissioner wrote to the council to request the reasons why it had stated that it did not hold the requested information. The council subsequently explained its reasons for all five parts of the complainant's request, as no information was held in relation to any part.
13. For clarity, the complainant's request is for information about a minute that was deemed to be confidential and "not for publication" because it considered an allegation against a member of the council's staff. Councillors therefore considered the matter after excluding all parties during a council meeting. This confidential minute was subsequently provided to the complainant, and forms the basis of his request for further information.
14. Firstly, the Commissioner asked the council to provide details of the record keeping procedures that it would follow in this situation.
15. The council has explained that all notes made during the confidential meeting were handwritten by councillors, and were then summarised by a councillor. These documents were then passed to the clerk to be turned into formal minutes. Once the typed minutes were approved, the original handwritten notes and summary was destroyed. For this reason, the council has explained that the information requested by the complainant in parts 2 and 4 of this request are not held, as the recorded minute represents the only extant record of the meeting. Equally, the information requested in question 5 for any proposed amendments, would have been recorded in the minutes if it existed, and is therefore information that is not held.
16. Secondly, the Commissioner asked the council whether there was a business or statutory need to hold the information that the complainant had requested.
17. The council explained that its minutes represent a legal record of its meetings, and that there is no statutory requirement for the council to maintain the notes that the minutes were based on. The council has provided the Commissioner with guidance it has received from South Oxfordshire District Council:

"Once the parish council has agreed by resolution that the minutes are correct they stand as a record of the official acts and decisions of the meeting to which they relate"
18. Additionally, the council has further informed that Commissioner that there is no legal requirement on it to record the identities of individuals who had acted as 'proposers' or 'seconders', and therefore this is not recorded in the minutes. Nor is there a legal requirement on it to record

the identity of the person responsible for taking the minutes, and therefore this is not recorded in the minutes. Having reviewed examples of the council's public minutes on its webpages, it is clear to the Commissioner that this level of detail is not habitually recorded. Therefore, there is no logical reason why the information requested in parts 1 and 3 of the request should be held.

Conclusion

19. The Commissioner is satisfied that the council has no purpose to hold the requested information, and nor is there a statutory requirement for it to do so. The Commissioner has identified that the minutes represent the legal record of a council meeting, and that the hand written notes that it might be based on are destroyed once the minutes have been agreed during the following council meeting. Equally, it has been identified that there is no statutory need for the council to maintain a record of the individual identities that the complainant has requested. Therefore, on the balance of probabilities, the Commissioner is satisfied that the council does not hold the requested information.

Right of appeal

20. If 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: 0116 249 4253

Email: informationtribunal@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

21. 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.
22. 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
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