

Freedom of Information Act 2000 (FOIA)
Decision notice

Date: 16 November 2021

Public Authority: Witherwick Parish Council
Address: clerk@witherwickparishcouncil.org.uk

Decision (including any steps ordered)

1. The complainant requested from Witherwick Parish Council ("the Council") information relating to training undertaken by the Clerk and Councillors. The Council denied that the requested information was held.
2. The Commissioner's decision is that the Council does not hold the requested information.
3. The Commissioner does not require the Council to take any steps.

Request and response

4. On 20 February 2021, the complainant wrote to the Council and requested information in the following terms:

(1) Please, under the FOI Act could you furnish me with details of the training the Clerk has done with regard to their role as a clerk for a Parish Council?

(2) Please could you furnish me with details of the training undertaken by current members of Withernwick Parish Council with regard to their roles as members and chairs?

(3) Please can you let me know if you are a member of an Association of Local Councils?
5. The Council responded on 9 March 2021. It disclosed information in respect of part (3), and stated that any held information for parts (1) and (2) was exempt under section 40(2).
6. On 20 March 2021, the complainant wrote to the Council to request an internal review in respect of parts (1) and (2).
7. Following an internal review, the Council wrote to the complainant on 6 April 2021. It stated that no recorded information was held for parts (1) and (2).

Scope of the case

8. The complainant contacted the Commissioner on 20 May 2021 to complain about the way their request for information had been handled. Specifically, he argued that the Council holds information in respect of parts (1) and (2).
9. The scope of this case and of the following analysis is therefore whether the Council is likely, on the balance of probabilities, to hold the information sought by parts (1) and (2) for the purposes of section 1.

Reasons for decision

Section 1 – General right of access to information

10. Section 1(1) of the FOIA states that:

Any person making a request for information to a public authority is entitled—

- (a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and*
- (b) if that is the case, to have that information communicated to him.*

11. Section 1(1) requires that any person making a request for information to a public authority must be informed in writing by the public authority whether it holds information relevant to the request, and if so, to have that information communicated to them. This is subject to any exclusions or exemptions that may apply.
12. In scenarios where there is some dispute between the amount of information located by a public authority and the amount of information that a complainant believes may be held, the ICO, following the lead of a number of First-tier Tribunal (Information Rights) decisions, applies the civil standard of the balance of probabilities.
13. In other words, in order to determine such complaints, the ICO must decide whether on the balance of probabilities a public authority holds any - or additional - information which falls within the scope of the request (or was held at the time of the request).

The complainant's position

14. The complainant asserts that the Clerk and Councillors must receive training, and has referred the Commissioner to specific meeting minutes published by the Council in 2015, 2018 and 2020, in which there are references to training being offered to, or undertaken by, the then Clerk and Councillors.

The Council's position

15. The Council has informed the Commissioner that, in respect of part (1) of the request, no information was known to be held at the time of the request. The Council notes that the request was responded to by the then Clerk, who would have been familiar with any recorded information in respect of their own training. The Council's current Clerk has elaborated that whilst the Clerk may have attended training events provided by other bodies as part of their role, there is no known central record of this, or any perceived business need to hold such information.
16. The Council has further informed the Commissioner that, in respect of part (2) of the request, no information was known to be held at the time of the request. There is no formal, or otherwise routine training offered

to Councillors, and whilst Councillors may elect to attend training events – such as to accompany the Clerk, or become aware of current topics – the Council does not maintain a central record of this, nor is there any perceived business need to do so.

The Commissioner's conclusion

17. The Commissioner has considered the Council's position.
18. Whilst it is recognised by the Commissioner that both the then Clerk and Councillors will have attended training events – as noted in the published minutes – the Council has explained that there is no maintained central record of what training the then Clerk and Councillors will have attended.
19. There is no contradictory evidence available to the Commissioner that indicates the Council's position is incorrect. It is also relevant for the Commissioner to note that the FOIA does not require the Council to now create the information in response to the request, such as from the then Clerk's, or Councillors, memory.

Right of appeal

20. 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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

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

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

Daniel Perry
Senior Case Officer
Information Commissioner's Office
Wycliffe House
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Cheshire
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