

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 30 March 2021

Public Authority: Ditchling Parish Council
Address: Parish Office
Ditchling Village Hall
Lewes Road
Ditchling
East Sussex
BN6 8TT

Decision (including any steps ordered)

1. The complainant has requested copies of parish council meeting minutes.
2. The Commissioner's decision is that Ditchling Parish Council is entitled to rely on the exemption at section 21, However, it breached section 10(1) in responding to the complainant outside of statutory time periods.
3. The Commissioner does not require any steps.

Request and response

4. On 28 October 2020, the complainant wrote to Ditchling Parish Council ('the council') and requested information in the following terms:

"Minutes of Parish Council meetings between January 1975 and December 2012.

I assume that the minutes of Parish Council meetings are not difficult to locate and therefore easily retrievable – Pls note that I am more than happy to receive the information as pdf documents so there is no need to print them off – after all that will save paper"

5. On 18 November 2020 the council responded and refused to provide the requested information on the basis of the exemption at section 14 (vexatious requests).
6. The complainant requested an internal review on 19 November 2020.
7. The council responded on 2 December 2020 and stated that it would not be holding a review.
8. The council received another request from the complainant on 2 December 2020 for the same historical minutes over a reduced time period, being 1975 to 1985. The council responded on 21 December 2020 and refused this request on the basis of section 21 (information reasonably accessible to the applicant by other means).
9. During the course of the investigation, the council confirmed to the Commissioner that it should have refused the request of 28 October 2020 on the same basis. It subsequently wrote to the complainant on 8 March 2021 and refused the request on the basis of section 21.

Scope of the case

10. The complainant contacted the Commissioner on 2 December 2020 initially to complain that the council had not provided an internal review. Subsequently the complainant confirmed that they remained dissatisfied with the council's changing position on the case and the reliance on section 21 to withhold the information.
11. The Commissioner considers the scope of the case is to consider whether the council is entitled to refuse the request on the basis of section 21, and if it made any procedural breaches in the handling of the request.

Reasons for decision

Section 21 – Reasonably Accessible to the Requestor

12. Section 21 of the FOIA states that:

- (1) *Information which is reasonably accessible to the applicant otherwise than under section 1 is exempt information.*
- (2) *For the purposes of subsection (1)—*
 - (a) *information may be reasonably accessible to the applicant even though it is accessible only on payment, and*
 - (b) *information is to be taken to be reasonably accessible to the applicant if it is information which the public authority or any other person is obliged by or under any enactment to communicate (otherwise than by making the information available for inspection) to members of the public on request, whether free of charge or on payment.*

13. The Commissioner considers that the purpose of the section 21 exemption is to protect the scarce resources of public authorities by shielding them from replying to requests for information which the requestor could have found elsewhere. It acts as an incentive for public authorities to be proactive in publishing information as part of their publication schemes. Finally, it protects the statutory right of public authorities to charge for certain information which they are bound by law to collect.

14. The council refused the request on the basis that the information was reasonably accessible by other means. The council directed the complainant to the archive storage records office which holds the requested minutes.

15. The council stores and publishes copies of more recent parish council meeting minutes on its website. However, the minutes requested by the complainant have been archived and moved to the archive storage records office called '*The Keep*'.

16. The Keep website has an online catalogue listing the documents available, documents can then be booked to view on site for free. Alternatively, selected documents can be scanned and reproduced at a charge.

17. The complainant states that the Keep is temporarily closed due to the coronavirus pandemic and therefore the information is not available to them.
18. The complainant considers that the council moved the records during the period that it was refusing the request and that it could have easily provided the information.
19. The council has confirmed that the minutes were not moved during the period of the request. Furthermore, the council would need to follow the same process to retrieve documents from the archive as they are not held in the council's offices.
20. The Commissioner notes that, at the time of writing the decision notice, the Keep has published an opening date on its website which is as soon as the pandemic '*lockdown*' rules will allow. She concludes, therefore, that Keep is following current pandemic restrictions for England as established by the UK government.
21. The Commissioner considers that the closure of the Keep due to the pandemic restrictions is unavoidable. Therefore, the information requested by the complainant still meets the section 21 requirement to be easily available, being through the processes that the Keep has published on its website. There is no further obligation for the council to obtain the information on behalf of the complainant.
22. The Commissioner is satisfied that the withheld information is reasonably accessible to the complainant and therefore exempt from disclosure under section 21 of the FOIA.

Section 10 – Time for compliance

23. Section 10(1) specifies that a refusal notice must be provided no later than 20 working days after the date on which the request was received.
24. The complainant requested the information on 28 October 2020 and the council responded on 18 November 2020 which is within the required time period.
25. However, during the course of the investigation the council updated its response to be in line with a subsequent request from the complainant for a subset of the information.
26. The council therefore issued an updated refusal notice, on the basis of section 21, on 8 March 2021. This is outside 20 working days, and thus the council breached section 10(1).

Right of appeal

27. 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

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

28. 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.
29. 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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