

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 29 March 2018

**Public Authority:** Betchton Parish Council  
**Address:** 185 Alton Street  
Crewe  
CW2 7PU

#### **Decision (including any steps ordered)**

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1. The complainant has requested copies of letters read out at / supplied to the Council's AGM in 1990.
2. The Commissioner's decision is that on the balance of probability Betchton Parish Council does not hold the information requested.

## Request and response

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3. On 11 July 2017 the complainant wrote to Betchton Parish Council and requested information in the following terms:

*'Please supply the following documents as listed below under the above act of Parliament.*

*'1. A copy of a letter I sent in, that was read out at the 1990 AGM Re (redacted) business premises.*

*2. A copy of the letter terminating the positions of (redacted) Chairman, and (redacted) Secretary.*

*The statutory period for compliance is 20 Days from the above date. TWENTY DAYS. To be sent to my email address.'*

4. On 21 July 2017 the Council responded saying that it did not hold the information.
5. The complainant contacted the Chairman of the Council on the same day to express his dissatisfaction with the response, and also the Commissioner.
6. On 28 July the Commissioner contacted the Council informally, asking it to confirm to if it had a review process and if yes, to undertake a review of its response to the complainant, and reiterated this again on 9 August 2017.

## Scope of the case

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7. On 10 September 2017 the complainant contacted the Commissioner to inform her that, despite requests from the Commissioner to undertake a review, he had not had a response from the Council.
8. The Commissioner considers the scope of the case to be whether the Council handled the request in accordance with the FOIA and in particular whether it was correct to say that it did not hold the requested information.

## Reasons for decision

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### Section 1(1)

9. Section 1(1) of 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.'*

10. The complainant requested letters from a meeting of the Council's AGM held in 1990. One related to business premises, and another to the resignations of officers. The Council responded with:

*'The Parish Council met last night, 20 July. The Chairman reported your notice to him headed "Freedom of Information Act 2000" which asked for copies of correspondence from 1990.*

*Neither the Parish Council nor any member of the Council has a letter (redacted) to be read to the Annual Meeting of the Betchton Parish held on 22 March 1990; nor letters of resignation from the Parish Council by either (redacted).*

*It would be unusual to keep such communications after so many years: minutes are sufficient as a record of proceedings. The Council maintains minutes of meetings dating back to 1974, and these include reference to a question you asked regarding planning applications at the annual meeting referred to above. The minutes also note the resignations of the Chairman of the Council at the time, (redacted), and of the clerk, (redacted), which were received and accepted at the Parish Council meeting held on 23 August of that year'*

The Commissioner notes that the minutes of the 1990 AGM have been supplied to the complainant under a previous request.

11. Although the Council failed to undertake a review of its response at the request of the Commissioner (see other matters), it did respond to her investigation letter. In response to questions about whether the Council had ever held the information, it stated that it retains all documents it is legally required to. It also said that it holds minutes and financial records dating back to 1974, and miscellaneous documentation from around 1990.

12. The Council confirmed that it had looked at all the information it held from this time (all in paper format) and did not find the letters to which the complainant refers. The Council also notes that the minutes of the AGM meeting in that year do not refer to any letters received or read out.
13. Given that the AGM meeting at the centre of this request was held 27 years ago, and the Council has done a thorough search of its records, the Commissioner concludes that on the balance of probability, it does not hold the information requested and has in its response to the complainant complied with its duties under section 1(1) of the FOIA.

### **Other matters**

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14. There is no obligation under the FOIA for a public authority to provide an internal review process. However, it is good practice to do so, and where an authority chooses to offer one, the code of practice established under section 45 of the FOIA sets out, in general terms, the procedure that should be followed. The code states that reviews should be conducted promptly and within reasonable timescales.
15. The complainant expressed his dissatisfaction with the Council's response to his request on 21 July 2017. Despite two requests from the Commissioner on 28 July and 9 August 2017 to undertake a review, the Council failed to respond to the complainant. She therefore recommends that in order to comply with the code, the Council ensures it has appropriate procedures in place for undertaking internal reviews of requests for information in a timely fashion.

## Right of appeal

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16. 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](mailto:GRC@hmcts.gsi.gov.uk)  
Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

17. 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.
18. 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**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**