

Freedom of Information Act 2000 (FOIA)

Date: 27 September 2018

Public Authority: Minting and Gautby Parish Council

Address: mintingandgautbyparishcouncil@gmail.com

Decision (including any steps ordered)

1. The complainant has requested information with regards to an Inn and its directors, one of whom is the complainant. Minting and Gautby Parish Council (the council) provided information to the complainant, however the complainant considered more was held.
2. The Commissioner's decision is that the council has provided the information it holds within the scope of the request.
3. The Commissioner does not require the council to take any steps.

Request and response

4. On 26 October 2017 the complainant made the following request for information to the council:

"We are writing to request all the information held by Minting and Gautby Parish Council, its Councillors or Officers, relating, directly or indirectly, to the [Inn name redacted] and the directors of [company name redacted] (namely [name redacted], [name redacted] and [name redacted]) to which we are entitled under the Act.

This request covers the periods from

a) 1st March 2013 when councillors first thought of applying to register the pub as an ACV to the date this matter was concluded (i.e. there is no more information held about it) and

b) from 10th May 2016 when the Parish Council Chairman and Clerk received our letter dated 9th May 2016 to the current

time (i.e. the date the final piece of information is sent to us).

We believe we are entitled to be provided with anything any Councillor or Officer of the Parish Council has created, has received, holds or has, at some stage, processed. This includes, for example, emails, letters, reports, faxes, file notes, notes of phone calls, minutes of meetings, videos, audio records - they are all "information" potentially disclosable under the Act - we understand that even a casual comment scrawled on the side of a minute may be covered. It would, we assume, include correspondence between councillors which refer to the [Inn name redacted] I and/or the owners individually. We expect you to release all non-exempt material."

5. The council responded on the 18 November 2017 providing a copy of the notes from a meeting of 2 June 2013.
6. The complainant requested an internal review on the 2 December 2017 as she did not consider the council had provided all the information it held and she provided examples of information she considered missing.
7. The council responded on the 12 December 2017 suggesting that this request was vexatious due to the amount of time it would take to respond, but stated it will continue to provide additional responses to this request in order to finalise it.
8. The complainant contacted the Commissioner on the 17 December to complain about the response received.
9. The council provided further information on the 20 January 2018 and on the 12 March 2018 provided its internal review response stating that the matter was now closed.

Scope of the case

10. The complainant contacted the Commissioner further as she still considers information to be outstanding.
 11. The Commissioner considers the scope of the case is to determine whether the council has provided all the information it holds within the scope of the request.
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Reasons for decision

Section 1 of the FOIA – Information held/ not held

12. 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 the information within the scope of the request, and if so, to have that information communicated to him.
13. 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 within the scope of the request (or was held at the time of the request).
14. The complainant clarified to the Commissioner that she considered the following information to still be outstanding:
 - i. Correspondence between the council and Bid Teams and others. No information has been provided.
 - ii. Email correspondence between Councillors in respect of them agreeing wording of the letter of 1 August 2017. The complainant states that the meeting of that date confirmed that there was such correspondence.
 - iii. Councillors were provided with 'information' relating to 3 options in regards to the 3 October 2017 letter in response to the complainant's letter of 24 August.
 - a. The complainant has gone on to state the Commissioner – *"PC (the council) has now admitted that apart from the (advised) three versions of the last paragraph they had two more options - not to reply, or retract the letter of 1 August altogether. The responses to this point are mired in obfuscation. At the meeting the chair confirmed that full retraction was one of the options and it is now apparent that the options were 1) not reply, 2) retract in full and 3) send a letter.*

As this matter was only discussed in abstract terms at the meeting, Councillors must have been provided with prior information and there must exist, or have existed, some documentation and/or email correspondence. As it stands

the only interpretation is that the 'last paragraph' scenario is a total fabrication and that information is being deliberately withheld."

- iv. Copies of correspondence leading to the council's second response to the complainant's letter of 24 August 2017 which followed-up a response of 3 October 2017.
 - v. Copies of correspondence to/from others copied in to correspondence e.g. Councillor [name redacted], [name redacted], [name redacted] and any others.
15. The points i. to v. outlined above will be the main focus of the Commissioner's investigation as to whether any further information is held by the council.
 16. The Commissioner took these five points, which the complainant considers to be outstanding, to the council and asked it to consider whether it holds any further information.
 17. The council has told the Commissioner that for point i. it holds no further information to this part. The council had explained to the complainant in a letter dated 20 January 2018 that it was not part of the Bid Team. The only member of the council who was on the Bid Team was [name redacted] – but he was not representing the council, he was there as a private citizen.
 18. For point ii. The council has advised the Commissioner that it holds no information on this matter, communication has been verbal which was not recorded.
 19. With regards to point iii. the council has explained to the Commissioner that the complainant has misunderstood this part. What was meant was that although there were 3 options written on the agenda item, a councillor could have moved a resolution to make a full retraction or not to reply. The council sent the text of the 3 option paragraphs in its 20 January 2018 response to the complainant.
 20. For point iv. the council has told the Commissioner that it does not believe any correspondence is held on this matter.
 21. Finally for point v. the council has stated that, other than what has been provided, no other correspondence is held.
 22. The Commissioner asked the council to explain the searches it had carried out in order to determine whether or not it held any further information in relation to point's i. to v. the council provided its response

stating that it searched its only laptop, external back up and hard drives. It reviewed its physically held files and council emails.

23. It has told the Commissioner that it has spent in excess of 30 hours in searching for any relevant documents it may hold and used 36 different key word searches which returned approximately 1000 documents. However on reviewing them, many of these documents were duplicates and so had to be whittled down.
24. The council has advised the Commissioner that other than draft minutes, which the council's Model Standing Order requires to be destroyed after the final versions are approved by council, it has not destroyed or deleted any information that would fall within the scope of the request.
25. No records are kept of the draft minutes once destroyed other than the approved final versions.
26. The Commissioner is aware that this is an established practice amongst public authorities.
27. The council, after considering point's i. to v. and conducting its searches, considers that it has provided all the information it holds relevant to the complainant's request.
28. It has confirmed that there are no business or statutory requirements on it to hold any further information.
29. The Commissioner has considered the council's responses to her enquiries and notes that the council is a small authority with the use of the village hall. It has told the Commissioner that normally it receives an average of one letter per year and holds four council meetings a year. So it seems highly likely that the amount of information it holds outside of its one laptop would be limited.
30. The council appears to have spent a considerable amount of time in trying to ensure that it complies with this request to the best of its ability and has looked for information in the most relevant places and appears to have spent a considerable amount of time in trying to fulfil this request.
31. On consideration of the above, the Commissioner is satisfied that the council has provided all the information it holds within the scope of the request.

Right of appeal

32. 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

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

33. 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.
34. 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