

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 24 October 2023

Public Authority: Goole Town Council
Address: Junction
Paradise Place
Goole
DN14 5DL

Decision (including any steps ordered)

1. The complainant requested details of expenses claimed by elected members for the period 2021-2022. Goole Town Council (the Council) stated that it did not hold the information requested. The Commissioner's decision is that, on the balance of probabilities, the Council does not hold the information requested and has complied with its obligations under section 1(1) of the FOIA.

Request and response

2. On 25 March 2023, the complainant wrote to the Council and requested information in the following terms:

"What expenses were claimed by each elected council for the year 2021 - 2022?".
3. The Council responded on 29 March 2023 and stated that no information was held as no councillor had claimed any expenses since the Council was formed in 1983.
4. On 1 April 2023 the complainant wrote to the Council and asked it to provide audited accounts to support its position that no expenses had been claimed by any councillor.

5. The Council responded on 6 April 2023 and advised that as it is a small local authority it does not have audited accounts, but instead it submitted an Annual Governance and Accounts Return (AGAR). The Council advised the complainant that they were welcome to make an appointment and inspect any documentation such as expense claims.
6. The complainant wrote back to the Council on 3 May 2023 and suggested the Council had provided conflicting information about expenses claims as it had originally stated that no expenses had been submitted by councillors but then subsequently it advised that expense claims could be inspected.
7. The Council responded on 3 May 2023 and stated that expense forms are "maintained for all staff and volunteers (including staff who may volunteer to run our theatre/cinema". The Council confirmed that the complainant was free to inspect all such expense claim forms to verify that no expense claims had been submitted by councillors.

Scope of the case

8. The complainant contacted the Commissioner on 18 July 2023 to complain about the way their request for information had been handled.
9. The scope of the Commissioner's investigation is to determine whether, on the balance of probabilities, the Council holds any information within the scope of the request.

Reasons for decision

Section 1 – general right of access

10. Section 1 of the FOIA states that any person making a request for information 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.
11. In cases where a dispute arises over the extent of the recorded information that was held by a public authority at the time of a request, the Commissioner will consider the complainant's evidence and arguments. He will also consider the actions taken by the authority to check that the information is not held and he will consider any other reasons offered by the public authority to explain why the information is not held. The Commissioner will also consider any reason why it is inherently likely or unlikely that information is not held.

12. In its initial response to the request, the Council stated that although councillors have a statutory ability to claim expenses, they have chosen not to claim expenses since the Council was formed in 1983. In a later response the Council advised the complainant that they were required to submit an Annual Governance and Accounts Return (AGAR). It also advised that the complainant was welcome to arrange an appointment to view all original documents in relation to the AGAR, which includes expense claim forms.
13. The complainant considers the Council's responses to be contradictory as it confirmed that no councillors had claimed expenses but then stated that they could view all expense claim forms. The Council addressed this point and confirmed it held expense claim forms for staff and volunteers (including those that volunteer to run its theatre/cinema). It advised that it had suggested that the complainant could have access to all expense claim forms to establish that no councillor had claimed expenses.
14. In its response to the Commissioner, the Council confirmed that only a small number of volunteers who provide services in its theatre/cinema have claimed expenses. The Council advised that it has a robust and audited system in relation to expense claims and all claim forms are held within one file.
15. The Council advised that it is obliged to publish a notice of any allowances paid to its councillors. As no allowances have ever been paid, it has not been required to produce any such notices. The Council also stated that its AGAR is checked by an Internal Auditor to ensure that it has complied with all statutory provisions. As such, if councillors had submitted expense claim forms and it had failed to produce a notice, this omission would have been identified by the Auditor. No such omission has been identified.
16. Based on the evidence available to him and in particular the explanations provided by the Council as set out above, the Commissioner is satisfied that, on the balance of probabilities, the Council does not hold the requested information, namely expense claims submitted by councillors in the financial year 2021/22.

Right of appeal

17. 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

18. 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.
19. 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

Joanne Edwards
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF