

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

### **Decision notice**

**Date:** 18 October 2024

**Public Authority:** Puxton Parish Council

**Address:** [clerk@puxtonparishcouncil.org.uk](mailto:clerk@puxtonparishcouncil.org.uk)

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

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1. The complainant requested from Puxton Parish Council (the Council) information relating to the Annual Governance and Accountability Return (AGAR) statement 2022-23. The Council confirmed that it does not hold any further information other than that disclosed to the complainant.
2. The Commissioner's decision is that on the balance of probabilities, the Council does not hold any further information falling within scope of the request, and it has complied with section 1(1)(a) of FOIA. Therefore, the Commissioner does not require the Council to take any steps as a result of this decision.

#### **Request and response**

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3. On 30 May 2023 the complainant wrote to the Council and requested information in the following terms:

"I wish to give notice that I would like to inspect the accounts for Puxton Parish Council for the financial year 2022-23."

4. The Council responded, it applied section 14 (vexatious request) of FOIA. The case was investigated resulting in a decision notice<sup>1</sup> ordering the Council to issue a fresh response that did not rely on section 14(1) of FOIA. This was served on 29 April 2024.
5. On 9 May 2024 the Council complied with the decision notice and provided the complainant with a fresh response to the request. It confirmed it had disclosed to the complainant all the information regarding the Council's 2022-23 accounts.
6. On 12 June 2024 the complainant submitted a new complaint to the Commissioner about the Council's response to this request. He disputed the Council's response that it does not hold any further information other than what had been disclosed. The complainant said he wants to inspect the accounts for 2022/23 and argued the information provided was not what he requested.
7. During the Commissioner's investigation of this complaint, the Council provided him with its submissions concerning information held/not held.

### **Reasons for decision**

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8. This reasoning covers why on the balance of probabilities, the Council does not hold any further information within scope of the request.

### **Section 1 – information held/not held**

9. Section 1 of 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 information within the scope of the request, and if so, to have that information communicated to him.
10. The public authority is not obliged to create or acquire information to satisfy a request.
11. The Commissioner's role when determining whether a public authority has complied with section 1(1) of FOIA, is limited to whether it is more likely than not that the public authority has provided all the recorded information it holds. The Commissioner is not required to challenge the accuracy or adequacy of this information.

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<sup>1</sup> <https://ico.org.uk/media/action-weve-taken/decision-notice/2024/4029524/ic-284809-f1y6.pdf>

12. This is because the terms of FOIA only relate to the provision of information as it is recorded, regardless of its accuracy or validity.
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 is led by a number of First-tier Tribunal decisions. He must decide whether, on the civil standard of the balance of probabilities, the public authority holds any information which falls within the scope of the request at the time it was made.
14. The Council informed the Commissioner that it sent the complainant all the information relevant to the 2022-23 AGAR papers on 8 June 2023. The Council confirmed there is no more information to disclose, and that it does not hold certain information i.e. "contracts or deeds, vouchers, receipts or other documents."
15. The Council explained how the AGAR information is held by the Clerk on a secure laptop, and "searches, staff consultations and key officials, networked resources" do not apply to the Council.
16. It further explained that the information is held as encrypted electronic records all in one place on the Clerk's laptop, and backed up encrypted on Apple iCloud. The Council said accounts and Meeting Minutes are also held as paper files and on the Council's website.
17. The Council confirmed that no information relevant to the AGAR has been destroyed.
18. With regard to a records retention policy, the Council confirmed that it had one, and quoted a paragraph from its finance section:

"Finance Scales of fees and charges 6 years Management Receipt and payment accounts Indefinite Archive Bank statements Last completed audit year Audit Cheque book stubs Last completed audit year Audit Paid invoices 6 years VAT Paid cheques 6 years Limitation Act 1980 Payroll records 6 years + current year HMRC Petty cash accounts 6 years VAT".
19. The Council said information has not been deleted and confirmed that there is not a business purpose for which the requested information should be held. With regard to statutory requirements for the Council to retain the requested information, it said there are not any beyond those indicated within the Council's Records Retention Policy.

20. For clarity and to support its argument regarding further information not held, the Council informed the Commissioner about the income it receives. It explained that as it's "a small rural parish, the only income received by Puxton Parish Council, is the annual precept of some £10,000". The Council said it has no property and the only employee is a part-time clerk.

### **The Commissioner's position**

21. It is not the Commissioner's position to determine what information ought to be held by the Council in this matter, but rather what is held, and whether appropriate searches have been conducted.
22. The Commissioner notes the complainant's concerns about the Council's income and expenditure. The complainant believes that in compliance with governance procedures and laws covering council services, this is not being adhered to in this instance. He said he wants to inspect the accounts for 2022-23 and that he has an issue with the Income and Expenditure and the Balance Sheet for 2023-24 placed against 2022-23. He detailed to the Commissioner figures which he obtained for certain accounts, and set out his reasons for disputing the accounts. The complainant's argument illustrates his belief of wrong-doing within the Council concerning these AGAR accounts, he said this is why he considers inspection is needed.
23. The complainant further argued that "the accounts are not just bills and payment. They are process, procedures, documents, government paper..." and he believes that the Council are being obstructive. He maintains that the Council is unable to provide the accounts and said it has failed to supply the information he is seeking.
24. With regard to the complainant wanting to "inspect the accounts..." and his emphasis on "inspection of the processes", the Commissioner considered that this is a preference for a particular means of communication, i.e. inspection, under section 11(1)(b)<sup>2</sup> of FOIA. He finds that in this instance, it is not reasonably practicable for the Council to give effect to this preference due to the poor relationship between the Council and the complainant, also due to the fact that it does not have any public premises.

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<sup>2</sup> [https://ico.org.uk/for-organisations/foi/freedom-of-information-and-environmental-information-regulations/means-of-communicating-information-section-11/#\\_Section\\_11\\_1b\\_opportunity](https://ico.org.uk/for-organisations/foi/freedom-of-information-and-environmental-information-regulations/means-of-communicating-information-section-11/#_Section_11_1b_opportunity)

25. It is clear to the Commissioner that the complainant not only considers there is further information held by the Council relating to his request, but the complainant strongly views the information which has been disclosed, to be inaccurate. As stated in the above paragraph 11, the Commissioner is not required to challenge the accuracy/adequacy of this information. The issue is whether further recorded information is held.
26. While the complainant believes that the Council has not provided all the information requested, the Commissioner has found no evidence which would indicate that the Council holds further information relating to the AGAR 2022-23 accounts, and he sees no reason to doubt the Council's explanation.

### **Conclusion**

27. The Commissioner considered the Council's explanation about the AGAR 2022-23 accounts, specifically its argument that all the relevant information has been disclosed to the complainant. The Commissioner acknowledges the information which the Council states it does not hold i.e. contracts, deeds, receipts, and that there is no further information held relating to the request.
28. He accepts how the AGAR information is held by the Clerk (all in one place on a laptop) and with regard to describing the search terms used and details of any staff consultations, he notes these do not apply to the Council. The Commissioner is also aware that its accounts are held as paper files and on its website<sup>3</sup>. He has considered the strength of the Council's reasoning and conclusions.
29. Based on the evidence provided to him, the Commissioner is satisfied the Council conducted appropriate searches for further information, and accepts its reasoning.
30. In conclusion, the Commissioner determined that on the balance of probabilities, the Council does not hold any further information within scope of the request. He is therefore satisfied that the Council complied with the requirements of section 1(1) of FOIA in this case.

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<sup>3</sup> [http://www.puxtonparishcouncil.org.uk/\\_UserFiles/Files/PPC%202021-22%20ACCOUNTS%20for%20Publication%20via%20Fine%20Reader%20As%20Amended.pdf](http://www.puxtonparishcouncil.org.uk/_UserFiles/Files/PPC%202021-22%20ACCOUNTS%20for%20Publication%20via%20Fine%20Reader%20As%20Amended.pdf)

## **Right of appeal**

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31. 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](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

32. 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.
33. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

**Joanna Marshall**  
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