

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 28 February 2025

Public Authority: Fleetwood Town Council
Address: 122 Poulton Road
Fleetwood
Lancashire
FY7 7AR

Decision (including any steps ordered)

1. The complainant has requested information from Fleetwood Town Council (the Council) seeking Fleetwood Museum trustees' meeting minutes and the governing document for Fleetwood Museum.
2. The Commissioner's decision is that, on the balance of probabilities, the Council does not hold the requested information. The Commissioner also find that the Council breached section 10(1) by failing to respond to the request within 20 working days.
3. The Commissioner does not require further steps.

Request and response

4. On 11 August 2024, the complainant wrote to the Council and requested information in the following terms:

"I write to ask if you would kindly supply any information held by Fleetwood Town Council (in accordance with the FOI Act)..regarding...The Governing Document of the Museum; Minutes of Trustee Meetings; (and incidentally anything you may hold in this regard since the inception of the Trust in 2016)."

5. The Council responded on 22 October 2024 and denied holding the requested information. The Council did not provide an internal review as it does not offer a right of appeal and directed the requester to complain to the Commissioner if dissatisfied.

Scope of the case

6. The complainant contacted the Commissioner on 22 October 2024 to complain about the way their request for information had been handled.
7. The Commissioner considers that the scope of his investigation is to consider whether, on the balance of probabilities, the Council holds the requested information.

Reasons for decision

Section 1 – information not held

8. Under section 1(1) of FOIA, anyone who requests information from a public authority is entitled under subsection (a) to be told if the authority holds the information and, under subsection (b), to have the information communicated to them if it is held and is not exempt information.
9. FOIA concerns recorded information only. It does not require a public authority to answer general questions, provide opinions or explanations, generate answers to questions, or create or obtain information it does not hold. The information must already be held at the point a request is made.
10. In cases where there is a dispute as to the information held by a public authority, the Commissioner will use the civil standard of proof, i.e. the balance of probabilities. In order to determine such complaints, the Commissioner must decide whether, on the balance of probabilities, a public authority holds any information which falls within the scope of the request. If a public authority does not hold recorded information that falls within the scope of the request, the Commissioner cannot require the authority to take any further action.
11. The Council advised the Commissioner that Fleetwood Museum is a community museum and is run by a museum trust. It explained that the Museum does receive funding from the people of Fleetwood via the annual precept of Fleetwood Town Council, but it confirmed that once

the funds are transferred to the Museum, the Council has no control over how the funds are spent.

12. The Council advised that it is not responsible for the Museum's expenditure, running costs or volunteer management. The Council added that it does not hold the requested information, nor does it have any input regarding the creation or alteration of the requested information.
13. The Council confirmed it does not retain any responsibility for the management of the requested information, nor has it provided any storage to the museum for the requested information.
14. Due to the above, the Council confirmed that it was unnecessary for it to conduct any searches for the requested information as it was able to confirm that the Museum and the Council are separate entities and the Council would not hold any of the requested information as it relates to the museum rather than the Council.
15. Based on the above, the Commissioner is satisfied that, on the balance of probabilities, the Council does not hold the requested information. The Council has clearly explained that it has not held the requested information at any point, nor does it have any responsibility for its creation, alteration or storage.
16. The Commissioner does not require any further steps to be taken.

Procedural matters

17. The Commissioner finds that the Council breached section 10(1) of FOIA, by failing to respond to the request within 20 working days.

Right of appeal

18. 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

19. 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.
20. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Michael Lea
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