

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

### **Decision notice**

**Date:** 15 January 2025

**Public Authority:** Nafferton Parish Council

**Address:** clerk@naffertonpc.org.uk

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

---

1. The complainant requested information from Nafferton Parish Council ("the Council") relating to a financial action plan.
2. The Commissioner's decision is that on the balance of probabilities, the Council does not hold information within the scope of the request.
3. The Commissioner does not require the Council to take further steps.

### **Request and response**

---

4. On 15 July 2024, the complainant wrote to the Council and requested information in the following terms:

"I request a copy of the 'Financial Action Plan' that is referenced in the Parish Councils Chairman's report for 2023 and was published in May 2024. It is again referenced in the Chairman's report as the basis of a financial overhaul in the report for 2024.

This is extract from 05-2023 chairman's report - published in May 2024

"The Rec Club is currently undertaking a financial action plan to ensure that profit and loss are equal with a sustainable facility for now and the future, this area of focus is the current main priority for the Rec"."

5. The Council wrote to the complainant on 17 July 2024 to acknowledge the request and stated that a copy of the requested financial action plan would be provided in due course.
6. The Council wrote to the complainant on 22 August 2024 and denied holding information within the scope of the request. It stated that a financial action plan relating to the Rec Club does not exist.
7. On 28 August 2024 the complainant requested an internal review. The Council responded on the same date and maintained its position that a financial action plan does not exist.

### **Scope of the case**

---

8. The complainant contacted the Commissioner on 7 September 2024 to complain about the way their request for information had been handled. They stated that they consider the Council to hold information within the scope of their request.
9. Therefore, in this notice the Commissioner will cover whether the Council holds information within the scope of the request.

### **Reasons for decision**

---

#### **Section 1 – general right of access to information**

10. The task for the Commissioner where a dispute arises over the extent of the recorded information that was held by a public authority at the time of a request is to determine whether, on the balance of probabilities, the public authority holds any information relevant to the request which it has not already disclosed to the complainant.
11. In making this determination, the Commissioner will consider the complainant's evidence and argument and the actions taken by the public authority to check whether the information is held and he will consider any other reasons offered by the public authority to explain why the information is not held. He will also consider any reason why it is inherently likely or unlikely that information is not held.
12. The Commissioner is not expected to prove categorically whether the information is held; he is only required to make a judgement on whether the information is held on the civil standard of the balance of probabilities. Applying the civil test of the balance of probabilities is in line with the approach taken by the Information Tribunal when it considered the issue of whether information is held.

### **The Council's position**

13. In its submissions to the Commissioner the Council stated that it does not hold information within the scope of the request. It stated that a financial action plan relating to the Rec Club does not exist and has never existed, either in completed or draft form.
14. The Council acknowledged that the Chairman's report from May 2023 does refer to a financial action plan. However, it explained that the Chairman used the term financial action plan when drafting their report to summarise a series of individual actions that were completed over a 12 month period to address the high operational costs of the Rec Club. It stated that in the Chairman's report, the term financial action plan does not refer to a financial action plan document and that the Chairman clarified this during the Council's Annual General Meeting in May 2023.
15. The Council stated that whilst a financial action plan does not exist, it has still conducted searches of its paper and electronic records for information within the scope of the request. It explained that it has also searched the email accounts of the Parish Council Chairman, former Chairman, Vice Chairman and Parish Clerk, including sent and deleted emails, for information within the scope of the request. However, no information within the scope of the request was located.

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

16. The Commissioner notes that the Chairman's report from May 2023 refers to a financial action plan. He also notes that when acknowledging receipt of the request on 17 July 2024, the Council informed the complainant that it would provide a copy of a financial action plan. Given this, the Commissioner understands why the complainant considers the Council to hold information within the scope of their request.
17. However, based of the explanation provided by the Council the Commissioner is satisfied that the Council does not hold a financial action plan relating to the Rec Club. He notes that no such plan exists or has ever existed. Furthermore, the Commissioner considers that if a financial action plan was held by the Council, the information would have been located by the Council's searches of its paper and electronic records.
18. Therefore, the Commissioner's decision is that on the balance of probabilities, the Council does not hold information within the scope of the request.

## Right of appeal

---

19. 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)

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

**Christopher Williams**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**