

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 17 January 2025

Public Authority: Middlewich Town Council

Address: The Town Hall
Victoria Buildings
Lewin Street
Middlewich
CW10 9AS

1. Request:

The complainant requested the following information from Middlewich Town Council on 7 October 2024:

" Ownership of Chester Road Cemetery

As you know, according to the Land Registry there are only two ways in which ownership of land and a property can be established:

a. By the possession of a Deed - As you know (Chester Records Office) Mr J F France (Lord of the Manor) donated £1,000 to the Cemetery Board to purchase the Chester Road burial ground. Mr France gave his donation to the Cemetery Board and not to any third party.

b. By Adverse Possession – The Council's FOI response (FOIWW211123 dated 5th January 2024) clearly states that the Council does not have any deeds to claim ownership of the Chester Road Cemetery and has not completed the mandatory documents to meet the criteria to claim ownership of the Chester Road Cemetery by Adverse Possession.

1. Would you please provide me with a copy of the documentation/legislation the Council is relying on to claim ownership of the Chester Road Cemetery.

Burial Authority for Middlewich

With reference to Mr Green's (Barrister to the Council) document titled 'Advice re Middlewich Cemetery Board' dated 11th October 2021. Mr Green makes 11 assumptions within his report to the Council being the rightful burial board for Middlewich.

Attached is a highlighted copy of Cheshire East Council's (CEC's) Cemeteries Strategy dated March 2019. Page 5 (item 2.3) of the Strategy relates to sources used by CEC to obtain the information used to compile the Strategy, i.e. Middlewich Council's Town Clerk.

Page 16 (item 4.21) identifies Middlewich Cemetery Joint Management Board as being the Burial Authority for Middlewich.

2. Would you please provide me with a copy of the documentation/legislation [sic] being relied upon by the Council to refute the information provided by MTC's former Town Clerk of 34 years that Middlewich Cemetery Joint Management Board was the Burial Authority for Middlewich.

Creation of a joint trust to manage the Chester Road Cemetery

3. A copy of the minutes where it was decided to issue Middlewich Cemetery Board with the ultimatum that they must form a trust with the Council or be taken to court.

Settlement Agreement ex-Town Clerk

4. A copy of the minutes relating to the settlement payment provided by the Council to the ex-Town Clerk for her to leave the employment of the Council, and also a copy of the Council's quarterly statement of accounts showing the settlement payment.

Complaint procedure

5. A copy of the Council's procedure to be used by members of the public wishing to submit complaints against Council Officers and Members relating to misconduct in public office."

2. Commissioner's Decision:

A public authority will breach section 10 of FOIA if it fails to respond to a request within 20 working days. Based on evidence available to the Commissioner, by the date of this notice the public authority has not issued a substantive response to this request. Therefore the Commissioner finds a breach of section 10.

3. Steps:

The public authority must provide a substantive response to the request in accordance with its obligations under FOIA.

The public authority must take this step within 30 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of FOIA and may be dealt with as a contempt of court.

4. Right of Appeal:

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

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

**Information Commissioner
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF**