

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 13 October 2015

Public Authority: Oxfordshire County Council
Address: County Hall
New Road
Oxford
OX1 1ND

Decision (including any steps ordered)

1. The complainant requested information from Oxfordshire County Council (the Council) relating to meetings within a specified timeframe between the Council and various parish councils, including the agenda and minutes of a meeting on a specific date. The Council provided some information but denied holding the remainder.
2. The Commissioner's decision is that, on the balance of probabilities, the remaining requested information is not held and therefore he requires no further action to be taken.

Request and response

3. On 28 May 2015, the complainant wrote to the Council and requested information in the following terms:

"I wish to lodge a request for all communications and minutes of meetings between

Harpsden Parish Council – [names redacted]

Shiplake Parish Council – [names redacted]

and Oxfordshire county council with reference to [address redacted] between 1st December 2014 and 20th May 2015.

I would also like the agenda and minutes of meeting that took place between parish councillors and OCC reference highways this meeting was on 31st March 2015 and included [names redacted]”.

4. The Council responded on 23 June 2015. It provided her with a copy of the Council’s response to the consultation with the District Council. With respect to the meeting of 31 March 2015, while it confirmed who attended, it advised that there was no agenda or formal minutes. In other words, it did not hold information to meet that aspect of the request.
5. Following an internal review, the Council wrote to the complainant on 21 July 2015. With reference to meetings between 1 December 2014 and 20 May 2015 it referred to some documents it had previously provided and said that there was no further information. Regarding the meeting on 31 March 2015 it confirmed that there was no agenda or formal minutes of that meeting.

Scope of the case

6. The complainant provided the Commissioner with the relevant documentation on 7 August 2015 to complain about the way her request for information had been handled.
7. She disputes that the Council does not hold any relevant information – for example, communications organising the meeting, a plan or agenda, an account of what was discussed and agreed, notes or action points - about the meeting on 31 March 2015.
8. The Commissioner considers the scope of his investigation to be whether the Council is correct when it says that it does not hold information within the scope of that part of the request.

Reasons for decision

Section 1 general right of access

9. Section 1 of FOIA states that:

“Any person making a request for information to a public authority is entitled –

(a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and

(b) if that is the case, to have that information communicated to him."

10. In scenarios such as this one, where there is some dispute between the public authority and the complainant about the amount of information that may be held, the Commissioner, following the lead of a number of Information Rights Tribunal decisions, applies the civil standard of the balance of probabilities. In other words, he must decide whether, on the balance of probabilities, a public authority holds any information which falls within the scope of the request (or was held at the time of the request).
11. In this case, the Commissioner has sought to determine whether, on the balance of probabilities, the Council holds the requested agenda and minutes for the meeting on 31 March 2015.
12. In deciding where the balance of probabilities lies, the Commissioner will consider the searches carried out by the public authority, in terms of the extent of the searches, the quality of the searches, their thoroughness and results the searches yielded. He will also consider any other information or explanation offered by the public authority which is relevant to his determination.
13. In correspondence with the Commissioner, the complainant said:

"I fail to understand how a meeting with an Oxfordshire County Committee member present and 8 other councillors cannot produce any notes, or action points or that there was no plan for this Meeting is agenda. There does not even seem to have been any emails arranging this meeting...(sic)".
14. In progressing his investigation, the Commissioner asked the Council to respond to him, including with respect to:
 - the searches it carried out for information falling within the scope of the request and the search terms used;
 - whether any recorded information relevant to the scope of the complainant's request had ever been held but had been deleted/destroyed; and
 - whether the Council has a business purpose for which the requested information should be held.
15. In its substantive response to the Commissioner, the Council described the searches it had carried out for information within the scope of the request. As a result of those searches it confirmed, with respect to the meeting on 31 March 2015:

"that there was no written agenda for the meeting and that no notes of the meeting had been taken by any officer of the County Council".

16. In support of its view that it does not hold any further relevant information, the Council told the Commissioner:

"The Council is confident that [the complainant] has received copies of all communication between Harpsden Parish Council, Shiplake Parish Council and Oxfordshire County Council with reference to [address redacted] between 1 December 2014 and 20 May 2015. The Council do not hold any agenda documents or minutes of the meeting that took place on 31 March 2015".

17. While appreciating the complainant's frustration that the Council does not hold the specific information she has asked for, the Commissioner is mindful of the comments made by the Information Tribunal in the case of *Johnson / MoJ* (EA2006/0085)¹ that the FOIA:

"does not extend to what information the public authority should be collecting nor how they should be using the technical tools at their disposal, but rather it is concerned with the disclosure of the information they do hold".

18. Having considered the Council's response, and on the basis of the evidence provided to him, the Commissioner is satisfied that on the balance of probabilities the Council does not hold the requested information.

¹ <http://www.informationtribunal.gov.uk/DBFiles/Decision/i90/Johnson.pdf>

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: 0300 1234504

Fax: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk

Website: 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.

Signed

Jon Manners
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