

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 3 October 2022

Public Authority: Stanton St Quintin Parish Council
52 Greenhill, Neston, Corsham, Wilts SN13 9SQ

Address: clerkstantonstquintinpc@gmail.com

Decision

1. The Commissioner decided that the Stanton St Quintin Parish Council holds no as yet undisclosed information within the scope of the request and so had complied with FOIA. He did not require the Council to take any steps.

Request and response

2. On 24 August 2021 the complainant made the following information request to Stanton St Quintin Parish Council:

"1. Missing minutes. There is a gap in minutes of around 7 years, can you explain this? There were 3 minute books supplied, should there have been 4? The minutes end with 2 Aug 1993 (page 258 of one book) and then start 20 Nov 2000 (in a new book). This would support a missing book.

2. Books from the company [a named company, name redacted ("the company")]. The minutes for 27 Nov 2018 say that books have been received from the company on local history from 1066 to date. Where are these books now and how could I view them? Do you have a list of titles and the periods they cover? And the area they cover too as I'm primarily interested in the history of LSSQ [Lower Stanton St Quintin]."

3. The final position of the Council was that it had disclosed some of the requested information but that the rest of the information requested was not held.

Reasons for decision

4. This reasoning covers whether or not the Council stated correctly that it does not hold any, as yet undisclosed, information falling within the scope of the complainant's request.
5. Section 1(1) FOIA says that: "Any person making a request for information to a public authority is entitled –
(a) to be informed in writing by the 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".
6. In scenarios such as this, where there is some dispute between the public authority and the complainant about the amount of information that may be held, the Commissioner applies the civil standard of the balance of probabilities. The Commissioner is not expected to prove categorically whether the information is held, only required to judge on the civil standard of the balance of probabilities. The Commissioner has investigated whether, on the balance of probabilities, at the time of the request the Council held the requested Council minutes and books.
7. The complainant told the Commissioner that the substantive issue underlying his request was of major personal significance to him. This is not a matter for the Commissioner who is concerned solely with the request for information and with whether the Council complied with FOIA.
8. The complainant said that, in his view, the evidence proved that he had been misled by the Council. He found incredible its' claim that seven years of minutes (1993 – 2000) were missing and that this had never been noticed. He said the clerk had searched back through the minutes for information at least three times; in one search the clerk had even claimed to have searched one of the missing years (1994).
9. The complainant added that the 2018 Council minutes say that books [plural] on local history had been received from the company. Accordingly he was reluctant to accept that the Council now held just one book relating to the history of the business and nothing else. He concluded that the Council appeared to be suppressing information likely to be of assistance to him but potentially damaging to its own cause and that of the county council.

10. The clerk to the Council told the Commissioner, as regards the missing minute book or books (request 1), that when she was appointed in 2005 she had collected several boxes of information, including a set of minute books, from the then Council chairman. She said she transferred the information to her office but did not, check that the set of minute books was consecutive or if any were missing.
11. The Council told the Commissioner it had carried out a thorough but unsuccessful search of all the documents it held and the Clerk had made enquiries of councillors all to no avail. The Clerk said she was unable to confirm if any further minute books had been passed to her in 2005 or if a gap in the record existed then. Diligent and appropriate searches of Council records have been made but had failed to locate any misplaced minute books. This meant that it was not possible for the Council to say now whether or not any further minute book or books had been among the records handed to the Clerk in 2005.
12. As regards books from the company, the clerk said that at a meeting in 2018 the then Council chairman had said that the company had donated some books which the Clerk understood to then be in his possession. She told the Commissioner that she had never held these books but had recently made enquiries to try and respond positively to the information request. The Clerk said that, as a result of her enquiries, she had located one book that was a history of the company but not the village.
13. The Commissioner found, on a balance of probabilities, that at least one minute book for the period 1993 – 2000 does now appear to be missing. Evidence from the complainant suggests that the Council minutes for 1994 may once have been held but the Commissioner found no evidence that they are held now. He is unable to say what records were handed to the Clerk in 2005.
14. As regards the request for books (request 2) the Commissioner found from his investigation that the Council had made appropriate and diligent searches but neither the clerk nor any Council member held the information requested.
15. Accordingly the Commissioner found no evidence that further information had been held by the Council at the time of the request but was being withheld from the complainant.
16. The Commissioner was therefore satisfied, on the balance of probabilities, that the Council had complied with FOIA.

Right of appeal

17. 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@justice.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

18. 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.
19. 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

Dr R Wernham
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF