

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

### **Decision notice**

**Date:** 18 June 2024

**Public Authority:** Poundstock Parish Council  
**Address:** Trevoulter Barton  
Poundstock  
Bude  
Cornwall  
EX23 0DH

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

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1. The complainant has requested information relating to a specific agenda item for a parish council meeting. Poundstock Parish Council (the Council) provided some information falling within the scope of the request, and advised that other information was not held.
2. It is the Commissioner's decision that, on the balance of probabilities, the council does not hold any information relevant to the request in addition to that which has already been provided to the complainant.
3. The Commissioner does not require the Council to take any steps.

#### **Request and response**

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4. On 23 September 2023, the complainant wrote to the Council and requested information in the following terms:

"Kindly provide the following additional documents mentioned in the Agenda for the parish council meeting on the 28/09/23:

- Statements for income, banking and investments.
- The financial schedule
- The CIL report
- Investments reports/documents to be considered."

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- 5. The Council responded on 16 November 2023, providing information relating to the first three bullet points of the request and advising that it held no information relating to the fourth.
- 6. An internal review was not carried out.

### **Scope of the case**

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- 7. The complainant contacted the Commissioner on 17 February 2024, to complain about the length of time the Council took to respond to the request and stated that they believed that it does hold information falling under bullet point four of the request.
- 8. They also raised a number of concerns relating to how the Council operates. These however fall outside the remit of the ICO and will not be considered here.
- 9. The scope of the following analysis is to determine if the Council responded within the required timescale and whether, on the balance of probabilities, it holds information falling under bullet point four of the request.

### **Reasons for decision**

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

- 10. Section 1(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.”
- 11. In scenarios where there is some dispute between the amount of information located by a public authority and the amount of information that a complainant believes may be held, the ICO, following the lead of a number of First-tier Tribunal (Information Rights) decisions, applies the civil standard of the balance of probabilities.
- 12. In other words, in order to determine such complaints, the ICO must decide whether on the balance of probabilities a public authority holds any - or additional - information which falls within the scope of the request (or was held at the time of the request).

## **The position of the Council**

13. The Council confirmed that the information specified in the request related to item eight of its agenda for the Council meeting on 28 September 2023.
14. It also confirmed that the fourth bullet point of the request related to agenda item 8(d) – a discussion about possible investment of parish funds.
15. It added that this agenda item was solely a discussion point to consider possible investment, and was meant as a preliminary discussion which did not involve the creation or distribution of any specific documents.
16. However, as part of the Commissioner's investigation the Council did confirm what searches were carried out in order to determine that no information falling under bullet point four was held.
17. It confirmed that it undertook searches of:
  - email correspondence pertaining to agenda item 8(d);
  - the records and minutes from the Council meeting held on 28 September 2023;
  - document archives, both physical and digital; and
  - the Council website.
18. The Council's opinion is that these searches would have been likely to retrieve any relevant information because:
  - Email correspondence is the primary mode of communication among Council members and is where preliminary documents or discussions would typically be shared.
  - Meeting records and minutes are comprehensive and include notes on discussions and decisions.
  - The Council's document archives store all official documents, making it the most reliable source to check for existing records.
  - The Council's website is regularly updated with meeting documents, making it a key resource for public information.

## **Commissioner's decision**

19. It is the Commissioner's view that, on the civil standard of the balance of probabilities, the Council does not hold any information within the scope of bullet point four of the request.
20. This is because the Commissioner considers that the searches undertaken by the Council to locate the requested information were proportionate, reasonable and would have been likely to return any relevant information were it held.

21. There is no contradictory evidence available to the Commissioner that indicates the Council's position is wrong.
22. On this basis, the Commissioner is satisfied that, on the balance of probabilities, the council does not hold any information falling within the scope of bullet point four of the complainant's request.

### **Procedural matters**

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23. Section 10(1) obliges a public authority to comply with section 1(1) promptly and within 20 working days following the date of receipt of the request.
24. In this case the request was made on 23 September 2023, and the Council sent its response on 16 November 2023, outside of the 20 working days allowed.
25. As the Council failed to respond to the request within 20 working days, the Commissioner finds that it breached section 10(1) of FOIA.

## **Right of appeal**

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26. 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)

27. 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.
28. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

**Ben Tomes**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**