

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 15 July 2015

**Public Authority:** Duddon Parish Council  
**Address:** Browfoot Cottage  
Grizebeck  
Kirkby-in-Furness  
Cumbria  
LA17 7XH

#### Decision (including any steps ordered)

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1. The complainant has made a request to Duddon Parish Council ("the council") for notes and associated documents from a meeting. The authority disclosed held information, but the complainant disputed that further information was held.
2. The Commissioner's decision is that the authority has disclosed all held information.
3. The Commissioner does not require any steps to be taken.

#### Request and response

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4. On 7 January 2015 the complainant wrote to the council and requested the following in respect of a meeting held on 16 September 2014:  

*"...I require you to supply me with copies of your notes and any subsequent report drawn up from them, and a copy of the report you presented to the other parties present. I also want to see copies of any documents pertinent to the conduct of that meeting."*
5. The council responded on 15 January 2015. It disclosed a map that may have been referred to in the meeting, but confirmed that no report was presented, and no notes or subsequent report were held.
6. The complainant requested an internal review on 3 February 2015.

7. The authority provided the outcome of its internal review on 27 February 2015. It maintained that its original response was correct.

### **Scope of the case**

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8. The complainant contacted the Commissioner on 20 March 2015 to contest the authority's response. Whilst a range of other issues have been raised by the complainant in relation to the substantive matter, these issues fall outside the Commissioner's jurisdiction.
9. The Commissioner therefore considers the scope of this case is the determination of whether the council, on the balance of probabilities, is likely to hold further relevant information.

### **Reasons for decision**

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#### **Section 1(1) – Duty to make information available on request**

10. Section 1(1) of the Freedom of Information Act ("the FOIA") states that any person making a request for information is entitled to be informed by the public authority whether it holds the information, and if so, to have that information communicated to them. This is subject to any exemptions or exclusions that may apply.
11. The FOIA provides a right of access to information in recorded form, and only that which exists at the time of the information request. The FOIA does not require a public authority to generate new information, such as in the form of an explanation or opinion, in order to respond to a request.

#### *The complainant's position*

12. The complainant has requested information about a meeting held on 16 September 2014 between the council, the Lake District National Park Authority ("the LDNPA") and Cumbria County Council ("the county council"). The subject of this meeting was the Greenslack Allotments site and associated access issues.
13. The complainant submitted their request to the council on the understanding that the council presented a report at the meeting, and that it may hold notes (and a report based on those notes) that details the content of the meeting.

14. As part of their complaint to the Commissioner, the complainant has provided the outcome of FOIA requests to the other involved public authorities, and contests that these provide evidence of further recorded information being held. In particular the complaint has referred the Commissioner to a response from the LDNPA that suggests that documents were referenced by the council's solicitor during the meeting. The complainant also considers that the information disclosed by the LDNPA suggests that a report was presented at the meeting by the council, and that this included four sworn statements.

*The council's position*

15. The council has advised the Commissioner that the meeting was informal, and held at the request of the county council.
16. The council has confirmed to the Commissioner that at the time of the request, no further recorded information was held by the council that would fall within the scope of the request. Specifically, no report was created for presentation at the meeting, and no subsequent report was created by the council. The council has also advised that whilst minimal notes had been made at the meeting by the Town Clerk, such notes were minimal and had been destroyed by the time at which the request was made.
17. The council has further detailed that whilst its solicitor (who was present at the meeting) may have referred to historical documents during the meeting, any such documents are not held by the council or the solicitor on its behalf.

*The Commissioner's assessment*

18. The Commissioner must decide on the balance of probabilities whether further information is held by the council that would fall within the scope of the request.
19. In the circumstances of this complaint, it is evident to the Commissioner that the meeting was called informally by the county council. The council has confirmed that it did not create any report for presentation at this meeting, and that any documents referenced by the council's solicitor would have been historic documents that are not held by the council itself. Additionally, whilst minimal notes were recorded by the Town Clerk, such notes had been destroyed by the time of the request, and there was no apparent business need for the council to create a report based on the meeting.
20. While the Commissioner has referred in detail to the complainant's submissions, the LDNPA response to a separate FOIA request made by the complainant does not confirm that a report was presented by the

council at the meeting, and there is no clear evidence to suggest that the council's response under the FOIA is incorrect. Having therefore considered the above, the Commissioner has come to the conclusion that it is unlikely that further information is held by the council in relation to the complainant's request.

## Right of appeal

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21. 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](mailto:GRC@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

22. 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.
23. 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 .....**

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