

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 20 November 2018

Public Authority: Upton Parish Council

Address: clerk@upton-pc.gov.uk

Decision (including any steps ordered)

1. The complainant has requested information with regards to the draft budget. Upton Parish Council (the council) stated it did not hold the detail of information being requested.
2. The Commissioner's decision is that the council does not hold the information requested.
3. The Commissioner does not require the council to take any steps.

Request and response

4. On 1 December 2018 the council provided the complainant, who is one of its councillor's, with a copy of its draft budget.
5. The complainant emailed the council on the 30 January 2018 asking questions regarding the budget. At the end of the email he made the following information request:

"In closing would you please provide a copy of your projected (anticipated) year-end calculations as highlighted in January's budget consultations."
6. The complainant contacted the council on the 16 April 2018 stating that he is still awaiting a response to his enquiries.
7. The council responded on the same day providing some explanations to his enquiries, but did not clearly state whether or not the requested information was held or not.

8. The complainant wrote to the council on the 30 April 2018, dissatisfied with the response provided so far, stating he was still awaiting the information requested 3 months prior. This would be considered the internal review request.
9. On 1 May 2018 the council provided its internal review response stating that the council has no further information to provide. It explained that, as previously stated, the council has fully discussed the budgets concerned and voted on them accordingly.

Scope of the case

10. The requestor complained to the Commissioner on 23 May 2018 dissatisfied with the responses he had received from the council.
11. The Commissioner explained to the complainant that under the FOIA, she can only investigate the part of his complaint with regards his request for recorded information. She advised it is outside her remit to look in to his other concerns that he is not being given explanations or responses to questions and concerns he has.
12. The Commissioner therefore considers the scope of the request is to determine whether the council holds the information requested on 1 December 2018 as outlined above in paragraph 5.

Reasons for decision

Section 1 of the FOIA – Information held/ not held

13. Section 1 of the FOIA states that any person making a request for information to a public authority is entitled to be informed in writing by the public authority whether it holds information within the scope of the request, and if so, to have that information communicated to him.
14. Where there is some dispute between the amount of information identified by a public authority and the amount of information that a complainant believes may be held, the Commissioner, following the lead of a number of First-tier Tribunal decisions, must decide whether, on the civil standard of the balance of probabilities, the public authority holds any information which falls within the scope of the request (or was held at the time of the request).
15. The council has responded to the Commissioner's enquiries explaining that the complainant, like all other councillors, has received the full and only documentation relating to the budget process. This being the Draft

Budget provided on the 1 December 2018. This was referred to in the council meeting and the points minuted by the clerk in the 4 December 2018 minutes.

16. The council explained that these minutes were provided to all councillors and are available on the council's website.
17. The complainant however, is wanting the details for the values that make up the projected (anticipated) year-end calculations in the Draft Budget.
18. The council has specifically stated to the Commissioner that no such document exists and never has. The only information it holds is what is recorded in the draft budget.
19. The council has confirmed to the Commissioner that it has thoroughly checked the documentation that was provided to the councillors.
20. The council has also stated to the Commissioner that the full budgeting process was examined by both the Internal Auditor (appointed by Northamptonshire Borough Council) and the External Auditors (appointed by the government) who have checked through the process and found that the council has conducted itself within the statutory guidelines.
21. The council's draft budget is what appears to have set out the council's anticipated expenditure. This budget does provide anticipated figures for a range of expenses such as the clerk's salary, street furniture, legal fees and insurance. The council is adamant it does not hold any further detail than this.
22. Without any evidence to the contrary and considering that the budgeting process has been approved by the relevant bodies, it is difficult for the Commissioner to conclude that the council holds the level of detail that the complaint is requesting.
23. The Commissioner is satisfied with the explanations provided and that the council has carried out relevant checks to establish what it does and does not hold.
24. Therefore the Commissioner finds that the council does not hold the specific information requested by the complainant.

Right of appeal

25. 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

26. 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.
27. 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