

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 29 April 2019

**Public Authority:** Atherstone Town Council  
**Address:** Atherstone  
Warwickshire  
CV9 1YN

#### Decision (including any steps ordered)

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1. The complainants have requested documentation from Atherstone Town Council ("the Council") regarding the ownership of their late parent's grave.
2. The Commissioner's decision is that the Council has correctly applied section 1 of the FOIA.
3. The Commissioner requires no further action to be taken by the Council.

#### Request and response

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4. On 25 January 2018, the complainants requested information from the Council of the following description:  
  
*"Please can I request all of the documentation with regards to my late parent's grave. This is in respect to deeds from when my father passed away in December 1999 to present day..."*
5. In February 2018, the Council responded and provided some information within the scope of the request.

#### Scope of the case

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6. The complainants contacted the Commissioner on 9 September 2018 to complain about the way their request for information had been handled.
7. With regard to the request, the Commissioner wrote to the Council on 4 December 2018, to ask it whether any further information was held falling within the scope of the request. On 14 December 2018, the Council confirmed that its position is that no further information is held with regard to the request. However, the complainants wish the Commissioner to make a determination on this since they consider that additional deeds may be held.
8. The following analysis covers whether the Council is correct to state that no further information is held with regard to the request.

## Reasons for decision

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### Section 1: information held by public authorities

9. Section 1 of FOIA states that:

*"(1) 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. 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).
11. The complainants have explained that they expected the Council to hold a deed or other document which would clarify the ownership of a particular grave. However, this was not provided to them with the other information they received on 20 February 2018.
12. The Commissioner has asked the Council to detail the searches that it has carried out and the Council provided the following details:

*"Re: 25 January 2018 FOI Request: Searches of computerised burial records, spreadsheets, maps (both computerised and hand-drawn)*

*handwritten deeds, manual interment files, handwritten burial registers, ownership transfers, emails and letters were carried out. These are the places that information relating to deeds and grave spaces are stored by the Town Council.”*

13. When, as in this case, the Commissioner receives a complaint that a public authority has not disclosed some or all of the information that a complainant believes it holds, it is seldom possible to prove with absolute certainty that it holds no relevant information. However, as set out in paragraph 10, above, the Commissioner is required to make a finding on the balance of probabilities.
14. With regard to the request, the Commissioner is satisfied that the Council has carried out adequate, appropriately-targeted searches, which would have been likely to locate all the information falling within the scope of the request. The Commissioner is satisfied that nothing else relevant to this request is held by the Council.
15. The Commissioner is satisfied in this case that the Council has demonstrated that it has reasonable grounds for considering that it does not hold any further information falling within the scope of the request, and therefore that it has complied with the requirements of section 1 of the FOIA in this case.

## Right of appeal

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16. 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)

17. 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.
18. 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**