

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

### **Decision notice**

**Date:** 2 August 2022

**Public Authority:** Normandy-By-Spital Parish Council

**Address:** nbyspc@gmail.com

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

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1. The complainant has requested information with regards to legal advice. Normandy-By-Spital Parish Council (the council) provided the information it held however the complainant considered more was held.
2. The Commissioner's decision is that the council has provided all the information it holds falling within the scope of the request.
3. The Commissioner does not require the council to take any steps.

## **Request and response**

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4. On 5 August 2021 the complainant made the following information request to the council:

“I am aware that NPC claims to have legal advice to the effect that Joint Parish Council Community Park Committee preceded over by Owmbly-By-Spital and Normanby-By-Spital Councils is “illegal”... supply me... a copy of the information Normanby-By-Spital Parish Council submitted to their legal team to obtain this advice and subsequent legal advice issued...”

5. The council responded on 25 August 2021 and provided the advice given from the Lancashire Association of Local councils (the LALC).
6. The complainant requested an internal review on the 26 August 2021 asking that the council provide all the information it holds.
7. The council provided its internal review on the same day stating that no other recorded information is held explaining that the majority of the advice it received was received verbally and the only recorded information is what it provided in its initial response.

## **Scope of the case**

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8. The complainant contacted the Commissioner on 16 September 2021 as he considers the council holds further information.
9. The scope of the case is for the Commissioner to determine whether the council holds any other information falling within the scope of the request.

## Reasons for decision

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### Section 1 of the FOIA

10. 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.
11. 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).
12. In this case the council has explained that the only document it holds has been provided to the complainant and that the other advice has all been given verbally from an employee at LALC and an agent from Solicitors of Zurich Insurance and this was not written down.
13. The Commissioner has not been presented with any evidence that counters the council's position that the majority of advice has been sought and provided verbally.
14. The FOIA only applies to recorded information held at the time a request is received. The Commissioner can not require a public authority to create new information in order to satisfy a complainant's request.
15. The Commissioner, based on the above, concludes that on the balance of probabilities that the council has provided all the information it holds falling within the scope of the request.

## 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@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)

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 .....**

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