

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 17 August 2022

Public Authority: Upton Bishop Parish Council

Address: clerk@uptonbishop.gov.uk

Decision

1. The complainant requested information from Upton Bishop Parish Council ("the Council") relating to the employment of the Parish Clerk.
2. The Commissioner's decision is that the Council has failed to carry out adequate searches for the requested information and therefore, on the balance of probabilities, has not identified all information held within the scope of the request.
3. The Commissioner requires the Council to take the following steps to ensure compliance with the legislation.
 - The Council must issue a fresh response to the request following searches aimed at identifying all the information held within the scope of the request
4. The Council must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of FOIA and may be dealt with as a contempt of court.

Request and response

5. The complainant made the following information request to the Council on 17 March 2022:

"This is a Freedom of Information Request made in accordance with the Gov.UK website, see link;

<https://ico.org.uk/for-organisations/guide-to-freedom-of-information/receiving-a-request/#11>

The information we seek is, as stated above; everything pertaining to the employment of the Parish Clerk. This position, up until 1st March this year, had been formally offered to [name redacted], and this was recorded in the Minutes of March and April 2021, until you withdrew it on 1st March 2022, telling her she needed to re-apply for her job. We need this information so we can decide what course of action we may take next.

For the avoidance of doubt this includes, but is not limited to:

- Minutes of meetings held on Tuesday 1st and Thursday 17th March regardless of whether they are in Draft or Approved form
- Any notes taken by Councillors either in writing or on an electronic device of any kind at either meeting
- Any notes issued by any Councillor pertaining to summarise the events that took place at those meetings
- Any audio or video recordings of either meeting
- All email exchanges between Councillors that have any relationship to this matter (this includes any message sent and the reply/replies received)
- All emails exchanged with any other body or third party outside of the Parish Council, e.g. [name redacted], and including any exchange with persons who were not entitled to be party to such information
- Emails to the Chairman from two Councillors confirming they wished the debate about the Closed Session held on 1st March to be re-opened and reconsidered
- Any message exchanges by any Councillor to any other person using any other electronic form e.g. Whatsapp,

Messenger, Messages or any other social media based system.

- All documents provided by HALC in relation to the original interviewing of the Clerk including the confirmation that the position had been made in February/March 2021
- All documents/email exchanges with HALC in relation to the meetings held on Tuesday 1st and Thursday 17th March
- Any ongoing documents/emails that are exchanged by any Councillor in relation to the Clerk's appointment after receipt of this FOI request until the matter is concluded
- Any other relevant information we may have overlooked

We are happy to receive the information in paper or electronic format. If you wish, we can provide a USB Memory Stick for each Councillor to copy their data on to. Alternatively, you can email everything in your possession by attaching it to an email and returning it to the email provided. If necessary, please ask us to set up a Dropbox where you can deposit the information."

6. The final position of the Council was that it has provided all the information it holds within the scope of the request.

Reasons for decision

7. This reasoning covers whether the Council stated correctly that it holds no further information within the scope of the request to that which it has already disclosed.
8. The Council considers that it has provided the complainant with all the information it holds within the scope of the request. The complainant considers the Council to hold further information within the scope of their request which has not been disclosed.
9. From the Council's response to the request and subsequent correspondence the Commissioner has had with the Council, it appears that when conducting its search for information within the scope of the request, the Council did not consider whether it holds any information relating to Council business in non official accounts. If the Council does hold information which relates to Council business in non official accounts, that information will be caught by the FOIA and therefore, may fall within the scope of the request.

10. Therefore, the Commissioner's decision is that on the balance of probabilities, the Council has not identified all the information it holds within the scope of the request.
11. The Commissioner requires the Council to issue the complainant with a fresh response to their request following searches aimed at identifying all the information held within the scope of the request. If the Council locates information within the scope of the request, that information should either be disclosed to the complainant or an adequate refusal notice should be provided.

Right of appeal

12. 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

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

13. 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.
14. 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