

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 20 December 2022

Public Authority: Balderton Parish Council
Address: The Balderton Village Centre
Coronation Street
Balderton
Newark
Notts
NG24 3BD

Decision

1. The complainant has requested information from Balderton Parish Council ("the Council") relating to an agreement between the Council and the YMCA which allows the YMCA to kayak on a specific lake.
2. The Commissioner's decision is that on the balance of probabilities, the Council does not hold information within the scope of part 1 of the request.
3. The Commissioner does not require the Council to take any steps.

Request and response

4. The complainant made the following information request to the Council on 23 May 2022 (numbering added by the Commissioner):

"I understood that Council Decisions should be recorded. Records clearly state that the Council had to approve the Final Docking Design before the Agreement could be signed. If a decision was made authorising you to sign the Agreement without the Council

having approved the design then I believe this decision should be recorded.

[1] Where is it recorded that you were given delegated powers to progress and sign the agreement 'to enable the YMCA to apply for funding' because I haven't found this evidence in any Council Records?

[2] Can I please have a copy of the Minutes of the September 2021 Meeting where the 'concept drawing' was presented? [3] I assume the 'concept drawing' that these minutes refer to will be included so I can fully understand them? I have not found this information on the Council website either."

5. The agreement referred to in the request, is an agreement between the Council and the YMCA which allows the YMCA to kayak on Balderton Lake. Alongside the agreement, the YMCA is in the process of constructing a boating dock which is subject to the Council's approval. The concept drawing referred to in the request, relates to the proposed boating dock.
6. The Council responded on 7 June 2022 and denied holding a copy of the concept drawing requested in part 3 of the request.
7. On 13 June 2022, the complainant wrote to the Council to complain about its response to their request stating that the Council had not provided them with the information requested in parts 1 and 2 of their request.
8. The Council responded on 12 July 2022 and provided the complainant with a copy of the meeting minutes requested in part 2 of the request.
9. On 22 August 2022, the complainant requested an internal review. The Council provided the complainant with the outcome of its internal review on 27 October 2022. It stated that it had provided the complainant with all the information it holds within the scope of the request.

Reasons for decision

10. This reasoning covers whether the Council holds information within the scope of part 1 of the request.
11. Whilst the Council has not specifically stated in any of its responses that it does not hold information within the scope of part 1 of the request, the Council has stated that it has disclosed all the information it holds within the scope of the request. Therefore, as the Council has not

provided the complainant with information within the scope part of 1 request, the Commissioner assumes that the Council's position is that it does not hold information within the scope of part 1 of the request.

12. The complainant considers that the Council holds information within the scope of part 1 of their request. In their complaint to the Commissioner, the complainant explained that they submitted their request for information following receipt of a letter from the Council on 16 May 2022. In that letter, the Council stated the following:

"The Dock design will be agreed separately; this decision is not recorded as it was made under delegated powers to progress the process and sign an agreement to enable the YMCA to apply for funding."
13. The complainant has interpreted this statement as meaning that the Council has delegated powers to the Chairman of the Council so that the Chairman can progress and sign the agreement which allows kayaking in Balderton Lake without the approval of the whole Council to enable the YMCA to apply for funding. Therefore, the complainant considers that the Council should hold information which records the Council's decision to delegate powers to the Chairman so that the Chairman can sign the agreement.
14. However, the Commissioner considers that the complainant has misinterpreted the Council's letter dated 16 May 2022. The Commissioner understands the above statement to mean that the Chairman of the Council has used his delegated powers to decide that the Dock design will be agreed separately to the agreement which allows kayaking on Balderton Lake, enabling the agreement to be processed and signed more quickly.
15. As the Council has not delegated powers to the Chairman of the Council so that the Chairman can progress and sign the agreement which allows kayaking on Balderton Lake without approval from the whole Council, the Commissioner considers that the Council will not hold information which records this decision, simply because this decision has not been made.
16. Therefore, the Commissioner's decision is that based on the balance of probabilities, the Council does not hold information within the scope of part 1 of the request.

Right of appeal

17. 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

18. 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.
19. 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