

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 22 August 2022

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

Decision

1. The complainant requested information from Balderton Parish Council ("the Council") relating to an agreement made between the Council and the YMCA which allows kayaking on Balderton Lake.
2. The Commissioner's decision is that the Council has failed to carry out adequate searches for the information requested in parts 5 and 6 of the request and therefore, on the balance of probabilities, has not identified all information held within the scope of parts 5 and 6 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 parts 5 and 6 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 3 February 2022 [numbering added by the Commissioner]:

“Unfortunately, my printer has broken down and I am unable to download and print off anything that I am sent electronically. Can I therefore please request hard copies of the following items which I understand might be readily available under The Council’s Publication Scheme?

1. The Council’s Publication Scheme
 2. The Agenda and Minutes for the Amenity Meeting held on 13 October 2021
 3. The Agenda and Minutes for the Amenity Meeting held on 1 December 2021
 4. The Clerk’s/Chairman’s Comments - December 2021 (Re Amenity & F&GP Meetings October 2021)
 5. The Agenda and Minutes where The Agreement to allow kayaking by The YMCA was proposed/agreed and where it was The Council’s Solicitor should be asked “to complete the agreement in readiness for signing”. I am sorry that I cant give you the date of this meeting but I have been unable to find it on the Council’s website.
 6. Can I also please have a copy of The Signed Agreement that The Council has made with the YMCA that allows kayaking on Balderton Lake?”
6. The final position of the Council was that it had provided the complainant with all the information it holds within the scope of the request.

Reasons for decision

7. This reasoning covers whether the Council is correct when it says that it has disclosed all the information it holds within the scope of the request.
8. The complainant considers the Council to hold further information within the scope of parts 5 and 6 of their request which has not been disclosed.

9. In response to part 5 of the request the Council provided the complainant with meeting minutes from a meeting held in 2017. The complainant does not consider these meeting minutes to be from the meeting where the agreement to allow kayaking on Balderton Lake was agreed by the Council, or from the meeting where it was decided to ask the Council's solicitor to complete the agreement ready for signing.
10. The complainant has explained why they do not consider the meeting minutes to be the information they requested in part 5 of their request. The complainant has provided the Commissioner with evidence which suggests that the agreement with the YMCA which allows kayaking on Balderton Lake was not agreed by the Council until after December 2021 and the Council's solicitor was not asked to complete the agreement ready for signing until December 2021. Therefore, the complainant considers that the meeting minutes from 2017, provided in response to part 5 of their request, cannot be from the meeting where the agreement was made and it was decided to ask the Council's solicitor to complete the agreement ready for signing.
11. In response to part 6 of their request, the Council provided a copy of a licence signed on 14 January 2022 which permits boating on the lake by the YMCA. The complainant considers that this licence is not the signed agreement they requested in part 6 of their request and has explained this view.
12. The complainant explained that the Council has previously stated that the agreement allowing kayaking on Balderton Lake by the YMCA could not be signed until a dock design had been approved by the Council. The complainant considers that as the dock design had not been approved by 14 January 2022 when the licence was signed, the licence cannot be the signed agreement requested.
13. The Commissioner considers that the Council has failed to conduct adequate searches for the information requested in parts 5 and 6 of the request. 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.
14. The Commissioner requires the Council to issue the complainant with a fresh response to parts 5 and 6 of their request following searches aimed at identifying all the information held within the scope of parts 5 and 6 the request. If the Council locates information within the scope of parts 5 and 6 of the request, that information should either be disclosed to the complainant or an adequate refusal notice should be provided.

Right of appeal

15. 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

16. 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.
17. 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
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Wycliffe House
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Cheshire
SK9 5AF