

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 5 July 2023

Public Authority: Hopton and Coton Parish Council
Address: Hopton and Coton Village Hall
Wilmore Hill Lane
Hopton
Staffordshire
ST18 0AW

Decision (including any steps ordered)

1. The complainant requested a copy of a recording of a Council meeting on 9 November 2022. Hopton and Coton Parish Council (the Council) stated that it did not hold the information requested. The Commissioner's decision is that, on the balance of probabilities, the Council does not hold the requested information. The Commissioner does not require any steps to be taken.

Request and response

2. On 15 November 2022, the complainant wrote to the Council and requested information in the following terms:

".....can you confirm ,as it seems the PC have the recording, that the council has recorded the meeting last week, I do not recall any notification to all in attendance that the meeting was to be recorded.

Under the Freedom Of Information Act I formally request that you make this recording available to me".

3. Following a previous decision notice that the Commissioner issued on 9 February 2023, the Council responded on 22 March 2023 and stated that it did not hold the information requested. The Council upheld this position in its internal review response dated 20 May 2023.

Scope of the case

4. The complainant contacted the Commissioner on 22 May 2023 to complain about the way their request for information had been handled.
5. The scope of the Commissioner's investigation is to determine whether, on the balance of probabilities, the Council holds any information within the scope of the request.

Reasons for decision

Section 1 – general right of access

6. Section 1 of the FOIA states that any person making a request for information is entitled to be informed in writing by the public authority whether it holds information of the description specified in the request and, if that is the case, to have that information communicated to him.
7. In cases where a dispute arises over the extent of the recorded information that was held by a public authority at the time of a request, the Commissioner will consider the complainant's evidence and arguments. He will also consider the actions taken by the authority to check that the information is not held and he will consider any other reasons offered by the public authority to explain why the information is not held. The Commissioner will also consider any reason why it is inherently likely or unlikely that information is not held.
8. The Council advised the Commissioner that at the meeting on 9 November 2022 it did not have a clerk in post. A member of the public who was present at the meeting offered to record the meeting on their mobile phone. However, it later transpired that no such recording of the meeting took place due to technical issues with the individual's mobile phone. As the Council itself, nor any councillor recorded the meeting, the Council's position is that it does not hold a recording of the meeting in question.
9. The complainant explained that they were present at the meeting and, due to the absence of a clerk, those present were advised by the Council to take their own notes of proceedings. The complainant later sent a copy of the notes they had taken to the Council. On 15 November 2022

the complainant was advised that the Council would compare the notes against the recording of the meeting. The complainant considers that this reference clearly suggests that the meeting was recorded.

10. The Council advised the Commissioner that at the time it wrote to the complainant, on 15 November 2022, it was unaware that the member of public who offered to record the meeting had not actually been successful in making the recording. It was only after this date that the Council was made aware that no recording was made.
11. The Council also provided the Commissioner with evidence that it had consulted with all councillors present at the meeting who confirmed that they did not make any recording of the meeting.
12. The Council advised the Commissioner that it does not routinely record its meetings. The clerk is responsible for drafting the minutes and takes notes at meetings to assist with this. Other councillors in attendance also take notes at meetings. Once the minutes of a meeting have been drafted, they are circulated to councillors to check for accuracy before being approved as an accurate record of the meeting.
13. The Commissioner understands why the complainant considers that a recording of the meeting exists. However, he notes that, to date, it has not been fully explained to the complainant as to the reason why no such recording exists.
14. Based on the evidence available to him and in particular the explanations provided by the Council as set out above, the Commissioner is satisfied that, on the balance of probabilities, the Council does not hold the requested information, namely a recording of the meeting.

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: 0203 936 8963

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

Joanne Edwards
Senior Case Officer
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Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF