

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 7 May 2014

Public Authority: Harpenden Town Council

Address: Town Hall, Leyton Road, Harpenden, Herts
AL5 2LX

Decision (including any steps ordered)

1. The complainant has requested information relating to any meetings attended by councillors with regard to a specified road and area since 2009.
2. The Commissioner's decision is that Harpenden Town Council (HTC) does not hold the information requested.
3. The Commissioner does not require the public authority to take any steps as a result of this decision notice.

Request and response

4. On 28 August 2013, the complainant wrote to HTC and requested information in the following terms:

"Who was present at each of the closed 'secret' meetings attended by councillors and/or officer of Harpenden Town Council relating to any matters concerning [redacted] since 2009 and/or its adjoining roads, open spaces and allotments since 2009 (Please include all attendees). Please also provide all the notes, minutes and any recordings taken at all of these meetings plus any 'input' included from other persons not present and unable to attend given to Harpenden Town Council to include in these meetings. Please provide all documentation relating to the tendering process and awarding of the contract to erect the fence and gate along the verge of [redacted] Open Space as erected in March/April 2013? Please include the initial invitation to tender. Please advise when the contractor(s) were selected to tender and by whom and also on what date was the final contractor chosen and on what merits

and by whom. Who determined the specifications of both the fence and gate and on what date(s)? Please forward the contractor's quotation(s), invoice(s) and receipt(s) and any other related correspondence?

5. HTC responded on 23 September 2013. It provided some information within the scope of the request but stated that it did not hold the remainder.
6. Following an internal review HTC wrote to the complainant on 15 November 2013 and maintained its original position.

Scope of the case

7. The complainant contacted the Commissioner on 3 January 2014 to complain about the way her request for information had been handled.
8. The Commissioner considers the scope of this case to be to determine if HTC has complied with its duties under section 1 of the FOIA.

Reasons for decision

9. Section 1(1)(a) of the FOIA requires a public authority to inform the complainant in writing whether or not recorded information is held that is relevant to the request. Section 1(1)(b) requires that if the requested information is held by the public authority it must be disclosed to the complainant unless a valid refusal notice has been issued.
10. Where there is some dispute between the amount of information located by a public authority and the amount of information that a complainant believes may be held, the ICO, following the lead of a number of Information Tribunal decisions, applies the civil standard of the balance of probabilities.
11. In other words, in order to determine such complaints the ICO must decide whether on the balance of probabilities a public authority holds any information which falls within the scope of the request (or was held at the time of the request). Without evidence to suggest that HTC holds further information, this argument cannot carry weight. In order to assist in this determination the Commissioner put a number of questions to HTC.
12. HTC confirmed to the Commissioner that it had revisited the request and searched electronic diaries for dates and times of meetings that might be within the scope of the request since 2009.

13. HTC stated that conversations may well have been held with officers regarding this subject, but up until 1 May 2012 the open space was owned by St Albans District Council. During the period of the transfer of the asset to the Town Council discussions would have been commercially sensitive. However there were no notes on any discussions that might have taken place.
14. With reference to any discussions regarding adjoining roads, these are managed by Herts County Council and there are no records of meetings or notes of any meetings regarding closed 'secret' meetings with the County Council on this subject.
15. HTC also confirmed that it has no record of meetings or notes of closed 'secret' meetings with the East Harpenden Allotments and Gardening Club.
16. The complainant has not provided any evidence to the Commissioner to support her position that secret meetings took place. In addition, by their very nature 'secret' meetings would be just that, 'secret' and therefore unlikely to be recorded anywhere or minuted.
17. Based on HTC submissions and the lack of any substantive evidence to the contrary, the Commissioner is satisfied that HTC does not hold any further information within the scope of this request. Therefore the Commissioner considers that HTC has complied with its duties under section 1 of the FOIA.

Right of appeal

18. 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: 0116 249 4253

Email: GRC@hmcts.gsi.gov.uk

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

19. 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.
20. 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

Pamela Clements
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF