



Further to your information request FOI/EIR 25/26-094, please find your question and our response below.

Request:

Under the Freedom of Information Act, I request the following information held by Swaffham Bulbeck Parish Council:

1. A copy of the letter sent by the Clerk on behalf of Swaffham Bulbeck Parish Council to the Monitoring Officer at East Cambs District Council in November 2024 regarding the error in reporting a vacancy on the Parish Council following the resignation of Cllr N Bates. Contained within this letter was reference to members of the former (Climate Change) working group in which I can be identified. The Monitoring Officer has confirmed this information in written communication to me.
2. The names of Swaffham Bulbeck Parish Councillors who received a copy of the above letter.

Response:

1. As the “qualified person” for East Cambridgeshire District Council under s36(5)(o)(ii) Freedom of Information Act 2000 (“FOIA”), the Monitoring Officer of East Cambridgeshire District Council is of the reasonable opinion that to disclose the information that has been requested would, under s36(3) FOIA, otherwise prejudice, or would be likely otherwise to prejudice, the effective conduct of public affairs. Your request is therefore refused for the following reasons:

The Clerk to Swaffham Bulbeck Parish Council must have the greatest possible confidence in seeking the advice and services of the District Council’s Monitoring Officer without any concern that information provided may be compromised by being revealed at a later date. The conduct of public affairs is likely to be prejudiced if Parish Council Clerks feel unable to ask for advice from the Monitoring Officer.

There is a reasonable expectation that correspondence seeking advice from the Monitoring Officer would be confidential and therefore could contain frank and free disclosure of information in seeking that advice. Such disclosure could impair the quality of decision making. It is therefore the reasonable opinion of the qualified person that disclosure of the information would otherwise prejudice, or would be likely otherwise to prejudice, the conduct of public affairs.

The qualified person has also placed weight on the “chilling effect” on communications between the Parish Council and the Monitoring Officer if disclosure, with the argued loss of frankness and candour in discussions and requests for advice, which would flow from the disclosure of information.

In addition, the District Council needs a “safe space”, away from public scrutiny, in which to reach decisions and provide advice. It is the reasonable opinion of the qualified person that the disclosure of information would or would like to prejudice the District Council’s ability to make decisions in such a “safe space” and for these reasons, it is not in the public interest to disclose the information requested.

2. The District Council has been advised that, in relation to the second part of the FOI request, the letter was only shared with the Chairman of Swaffham Bulbeck Parish Council as a matter of courtesy, as the Clerk to Swaffham Bulbeck Parish Council was going on annual leave shortly after receipt of the letter and actions may have been required in her absence.

Review Request:

I am making a request for an internal review to provide the information requested from Swaffham Bulbeck Parish Council for the following reasons:

1. I understand that you are basing your refusal of my request on s36 in the Act (prejudice to the effective conduct of public affairs). As you are aware, this exemption is 'qualified', that is the decision-taker needs to balance any potential harm arising from disclosure with the public interest. I would respectfully ask that the internal review considers again both whether disclosure of the letter could, in practice, prejudice the effective conduct of public affairs, and even if it could, whether there are not compelling public interest reasons for disclosure. The ICO's guidance states 'the principle behind the Act is to release information unless there is good reason not to'.

2. The letter from the Parish Council to the Monitoring Officer at East Cambs District Council was, as stated in your letter to me of 13th February 2025, 'regarding the error in reporting a vacancy on the parish council'. This was clearly responding to a request from you for an explanation and not for the Parish Council to seek confidential advice in order to make decisions. As confirmed by you, the letter also contained reference to members of the working group carrying out what might be viewed as 'fraudulent activity'. This has been totally refuted by the members of the working group. The content of the letter from the Clerk triggered a series of actions by officers at East Cambs District Council which was discussed in confidence with the Clerk to the Parish Council. Confidential discussions resulted in a breach of this confidentiality by the Clerk, triggering a further series of actions – this time taken by the Parish Council in the minutes published for January 2025 and subsequently by some individual Swaffham Bulbeck Parish Councillors further spreading this confidence to village residents. This has caused considerable harm to my reputation and well-being, and I feel I have a right to know what allegations were made. The intent of the s36 exemption is to enable frank exchanges about genuinely difficult issues, not to cover up poor practice or errors made by public bodies.

3. The Parish Council neglected its legal obligation to publish a notice of vacancy following the resignation of Cllr N Bates. There is a public interest in understanding the reason for this significant error, and what assurance, if any, it provided that it has taken steps to prevent a recurrence.

4. Whilst the topic of the letter was the notice of vacancy, apparently it included allegations about the conduct of three members of the former Climate Change Working Group. There is a public interest in understanding why the Parish Council decided to make these allegations alongside its explanation of the failure to issue the notice of vacancy. There appears no logical link between the notice of vacancy and the activities of the former working group. As a community member of the working group at the time, the Parish Council had not communicated with me about any matter of concern, so I would not have expected reference to be made to me within this letter. I wrote to the Clerk on 12th February 2025 expressing this viewpoint and the letter was passed to the Chair who declined to provide an explanation.

Review Response:

1. The correspondence sent by the Clerk on behalf of Swaffham Bulbeck Parish Council to the Monitoring Officer at East Cambs District Council, was sent with the expectation of confidentiality. In seeking advice, the letter contained the frank and free disclosure of information relating to the timeline of events which led to the error in reporting a vacancy on Swaffham Bulbeck Parish Council.

Disclosure of the letter would prejudice not only the effective conduct of frank and free discussion, in this situation, but it could also prejudice the ability to have confidential discussions in the future, dissuading Parish and / or District Council Officers from seeking advice, knowing that their communications could potentially be made public. Matters which are of interest to the public do not necessarily equate to the public interest in a matter.

2. The purpose of the letter was to seek advice from the Monitoring Officer in rectifying the error of not reporting the Parish Council vacancy, not to cover up poor practice or errors.

In the letter the Parish Council stated that it had been very careful to protect the identities of the working group and to maintain confidentiality. To publish the letter, and therefore names of the members of the working group, would breach the data protection principles contained within Article 5(1) of the UK General Data Protection Regulation (UK GDPR). We have followed the Information Commissioner's guidance in assessing whether it is fair to disclose this information under FOI. This involves considering the nature of the information, the expectations of and potential harm (of disclosure) to the data subjects, and how any legitimate public interest in this information is balanced against the rights and freedoms of the data subjects. We note that the Parish Council worked carefully to maintain confidentiality, and we have not identified a lawful basis that would allow or require us to disclose this information. We have therefore concluded that disclosure of this information would be in contravention of the UK GDPR.

3. Swaffham Bulbeck Parish Council has acknowledged that they made an error in not reporting the vacancy. They sought advice and guidance from the Monitoring Officer, to ensure that this error does not occur again.

4. The letter provided the Monitoring Officer with the full timeline of events, which detailed the resignation of a Parish Councillor and which lead to the error of not reporting the vacancy.

The original FOI request was refused under Section 36(2)(c) Prejudice to the effective conduct of public affairs. This has been reviewed to also include refusal based on Section 40(2) Personal Information.

This concludes your request for a review of FOI/EIR 25/26-094. Should you remain dissatisfied with the outcome you have a right under s50 of the Freedom of Information Act to appeal against the decision by contacting the Information Commissioner, Wycliffe House, Water Lane, Wilmslow SK9 5AF

