

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 19 February 2019

Public Authority: Potto Parish Council

Address: pottopc@btinternet.com

Decision (including any steps ordered)

1. The complainant has requested to know what actions are being taken to safeguard public money following a complaint about an Annual Return. Potto Parish Council (the council) responded asking for clarification of the request. Following clarification from the complainant, the council has not provided a valid response.
2. The Commissioner's decision is that the council has breached section 1 of the FOIA as it has not provided a valid response to the request, as required by the FOIA.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
 - Issue a fresh response to the complainant's information request as per section 1(1) of the FOIA or a valid refusal notice as per section 17 of the FOIA.
4. The public authority 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 the Act and may be dealt with as a contempt of court.

Request and response

5. On 15 June 2018 the complainant wrote to the council with regards to a complaint about the 2016-17 Annual Return and made the following information request to the council:

"What actions are you now taking to safeguard our public money?"

6. The council responded on 18 June 2018 and advised that it had responded to all recommendations from its auditors and that Policies and Procedures are in place to ensure the safeguarding of public money.
7. The council also asked the complainant to clarify what information he was requesting.
8. On 9 July 2018 the complainant emailed the council stating that he had not received an answer to his information request. He advised the council that the statement that policies and procedures are in place to ensure the safeguarding of public money is meaningless and vague.
9. He asked that the council provide information describing what actions the council is now taking to safeguard public money.
10. After a further exchange of emails between the complainant and the council, the council emailed the complainant on 28 July 2018 stating that it has previously responded to the request and also asked what specific recorded information is being requested, stating that this has not been made clear. The council concluded that the matter is now closed and that there will be no further correspondence.
11. The complainant emailed the council on 29 July 2018 stating:

"I seek any recorded information that you have describing any actions that you or the council are taking to safeguard public money, in regards to the spiralling costs of the 2016-17 AR audit investigation".
12. The complainant asked that the council now review its response to his request and on 7 August 2018 he provided an example of an 'action being taken' by the council, asking that this be included in the internal review.
13. The council emailed the complainant on 13 August 2013 advising that an internal review will be undertaken at its next meeting.
14. The complainant contacted the Commissioner on 16 August 2018 as he did not receive a response to his internal review request.

15. The Commissioner contacted the council on 10 September 2018 asking it to respond in accordance with section 1 of the FOIA or issue a valid refusal notice as per section 17 of the FOIA.

Scope of the case

16. The complainant contacted the Commissioner again to complain that the council has still not responded to him.
17. The Commissioner considers the scope of the request is to determine whether the council's response is in accordance with section 1 of the FOIA.

Reasons for decision

Section 1 of the FOIA – Information held by public authorities

18. Section 1(1) of the FOIA states that:

- (1) *"Any person making a request for information to a public authority is entitled-*
 - (a) *to be informed in writing by the public authority whether it holds information of the description specified in the request, and*
 - (b) *if that is the case, to have that information communicated to him."*

19. Subsection (3) of section 1 of the FOIA states:

- (3) *"Where a public authority-*
 - (a) *Reasonably requires further information in order to identify and locate the information requested, and*
 - (b) *Has informed the applicant of that requirement,*

The authority is not obliged to comply with subsection (1) unless it is supplied with that further information."

20. In this case, the council did ask the complainant to clarify the type of information he was seeking.

21. The complainant provided clarification on the 29 July 2018 stating:

“I seek any recorded information that you have describing any actions that you or the council are taking to safeguard public money, in regards to the spiralling costs of the 2016-17 AR audit investigation”.

22. Since this clarification, the council has not provided any indication as to whether it holds information falling within the scope of his request or not.

23. It seems reasonable to the Commissioner that this clarification is sufficient enough for the council to provide a response to the complainant's request in accordance with the FOIA and the council has not provided the Commissioner with any arguments to counter this view.

24. On the basis of the above, the Commissioner finds that the council has breached section 1(1) of the FOIA as it has not provided the complainant with a response in accordance with this section of the FOIA.

25. The Commissioner therefore requires the council to comply with the steps outlined in paragraph 3 above.

Right of appeal

26. 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@hmcts.gsi.gov.uk

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

27. 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.
28. 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

Andrew White
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