

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 15 August 2022

Public Authority: Potto Parish Council
Address: pottopc@btinternet.com

Decision

1. The complainant requested information from Potto Parish Council ("the Council").
2. The Commissioner's decision is that the Council has failed to carry out adequate searches for the requested information and therefore, on the balance of probabilities, has not identified all information held within the scope 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 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 2 August 2021:

"(1) I have been reading a newspaper story about Potto Council which was published on 30 April 2021, where Chairman [name redacted] makes quite a lot of comments about on-going objections and extra audit costs.

But I also see the meeting minutes for December 2018 which state "the Council is unable to comment on on-going objections to anyone including the Press".

I'm very confused; either the Council can comment on objections to the Press, or it can't.

a. Please provide a copy of the specific information that the Council referred to in December 2018 that prevented the Council making any comments to the Press.

b. Please provide the approx date when this information changed, because the Chairman clearly did comment on on-going objections to the Press on 30 April 2021.

c. If the date of the change is unknown, please highlight the revised or updated details in the information that allowed the Chairman to comment to the Press in April 2021, but prevented comment to the Press in December 2018.

(2) I see the Council website stated in bold red ink that 'there will be no meeting in June 2021', but I am now very surprised to see that the June 2021 meeting was apparently held.

a. Please provide me with information to explain why this June meeting was shown as 'no meeting', rather than being postponed, for almost all of June.

b. Please provide the date when this June agenda was first published on the website, although I see this agenda is dated 21st June 2021.

(3) I see that seven of the monthly meeting minutes for 2020 record that Council meetings were held in the village hall and were also held by TEAMS. It doesn't seem possible that these records can be accurate. I thought that meeting minutes had, by law, to record where the meeting was really held.

a. Please confirm if these Council meetings were really held in the village hall, as stated in these seven published final minutes.

b. Please also provide information to confirm if these minutes are fully accurate.

(4) Several documents for the yearly accounts were still not published in early July 2021, despite the Council notice period starting in the middle of June.

a. Please provide information that records why the public was prevented from reading these important account documents during the first weeks of the notice period.

(5) I see that the May, June and July 2021 meeting minutes record that no requests had been received to record these Council meetings. But, in my email to you dated 21 March 2021, I requested that you make an audio-visual recording and send me a copy of this recording for all 2021 meetings.

a. Please provide information to support the clearly incorrect claim published in these minutes.

For the avoidance of doubt, I reiterate my request that I want to receive a recording of the remaining 2021 Council meetings. I have been making these requests since December 2020 and, to date, you have obstructed each one – I have not yet received a recording of a single Council meeting.

(6) I read in the April 2021 minutes that Councillor Wilde will look into changing the parish council to a parish meeting. However, the May, June and July meeting minutes do not make any mention or update about this important change.

a. What information has been sought?

b. What information has been received?

c. Has the Council made a decision about his change?

(7) I see that, following my earlier complaint, you have recently amended and deleted my name from the published May 2020 meeting minutes. Thank you for this correction.

a. Please provide the page number of the meeting minutes where this amendment was discussed and where the revised wording was agreed.

b. Please also provide a copy of the Council procedure used to correct errors found in published and resolved final minutes.

(8) I see that the July 2021 meeting final minutes are now (1st August) published on your website - they are NOT marked as draft.

a. Which date were these final minutes approved by the council?"

6. The final position of the Council was that it has 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 has provided all the information it holds within the scope of the request.
8. The Council's position is that it has provided the complainant with all the information it holds within the scope of the request. The complainant considers that the Council has not provided all the information it holds within the scope of their request.
9. The Commissioner considers that the Council has failed to conduct adequate searches for the requested information. 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.
10. The Commissioner provided the Council with the opportunity to conduct an internal review and carry out further searches for information within the scope of the request. However, the Council did not take this opportunity.
11. The Commissioner requires the Council to issue the complainant with a fresh response to their request following searches aimed at identifying all the information held within the scope of the request. If the Council locates information within the scope of the request, that information should either be disclosed to the complainant or an adequate refusal notice should be provided.

Right of appeal

12. 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

13. 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.
14. 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
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