

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 23 November 2017

Public Authority: Potto Parish Council
Address: 34 The Birches
Coulby Newham
Middlesbrough
TS8 0VA

Decision (including any steps ordered)

1. The complainant has requested a detailed breakdown of Potto Parish Council's budget for village improvements including any job tasks for the financial year 2017/18. The Council responded with some information, but said no detailed quotations were held by it. The complainant maintained that the Council held further detail in order to arrive at the figure in the 2017/18 budget. During communications with the Commissioner, the Council provided further information about how the village improvements figure had been calculated.
2. The Commissioner's decision is that in failing to communicate to the complainant all the information it held to fulfil the request within the statutory timescale of 20 working days, Potto Parish Council breached section 10(1) (time for compliance) of the FOIA. She also found a breach of section 1 (general right of access) of the FOIA.
3. The additional information has been provided to the complainant. The Commissioner does not require the Council to take any steps.

Request and response

4. On 6 April 2017 the complainant wrote to Potto Parish Council and requested information in the following terms:

'I note from scrutiny of your budget for 2017-18, that a substantial sum of public money has been allocated to village improvements. This is a vague and meaningless title.

Please provide me with a detailed breakdown, complete with the appropriate job description and copies for each job task, of where exactly my money is to be spent. I understand that you must hold this data, so as to enable the budget and hence the precept tax to be calculated properly.'

5. The Council responded on 21 April 2017. It stated that

'The precept request for 2017/18 is based on information and estimates made during the preparation of the precept request. No detailed quotations etc, are held by Potto Parish Council.'

6. On 1 May 2017 the complainant emailed the Council to express his dissatisfaction with the response:

'You must have recorded a significant number of specific projects and the associated estimated costs, in order to determine the total sum which was then included as part of the precept tax for 2017-18. Otherwise, the precept tax is built upon baseless ideas and fantasy and this scenario would be, of course, completely unacceptable and unprofessional.

You stated on 21 April at 16.36pm 'The precept request for 2017/18 is based on information and estimates made during the preparation of the precept request.

*This is exactly the info I seek, ie the 'information and estimates' you refer to in your response, see above. **Please provide me with a copy of this 'information and estimates' data.'***

7. On 7 May 2017 the complainant contacted the Commissioner to complain about the response from the Council. The Commissioner wrote to the Council on 10 May 2017, explaining that it considered the complainant's email of 1 May 2017 to constitute a request for review. She referred to the Code of Practice issued under section 45 of the

FOIA, and requested that the Council issue an internal review decision to the complainant within 20 working days of the receipt of her letter.

8. The complainant contacted the Commissioner on 31 May 2017 to say that he did not believe the 20 working day time-frame for the review would be met. The Commissioner advised the complainant to wait until the 20 day deadline had passed (that being 9 June 2013) before contacting her again.

9. On 1 June 2017 the Council contacted the complainant stating:

'A response to your original email was sent on 21/04/2017.'

Scope of the case

10. The complainant contacted the Commissioner on 13 June 2017 to say that following Council's response on 1 June 2017, he remained dissatisfied.

11. The Commissioner considers the scope of the case to be whether the Council complied with its obligations under section 1 of the FOIA (general right of access to information held by public authorities) and section 10 (time for compliance with the request).

Reasons for decision

Section 1 – general right of access

Section 10 – time for compliance

12. Section 1(1) of the FOIA states:

"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."

13. Section 10(1) of FOIA states that:

"... a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt".

14. The complainant sent the request on 6 April 2017 and received a response on 21 April 2017, which was within the 20 working day requirement. However, the information supplied by the Council was minimal and did not explain or show how the '*village improvements*' figure in the 2017/18 budget had been arrived at. It referred to '*information and estimates*', but did not supply these or explain what they were.
15. In its email to the complainant on 1 June 2017, presumably in response to a request from the Commissioner to undertake an internal review, the Council simply stated '*A response to your original email was sent on the 21/04/17*'.
16. The Commissioner wrote to the Council on 28 September 2017 and asked a series of questions to ascertain how the figure for '*village improvements*' had been arrived at, and whether this information was held in a recorded format. The Council replied on 26 October 2017, providing an explanation of how the figure had been calculated. This included:
- reference to the Council's 10-year plan which covers a range of activities to improve the surface of the local area;
 - specific detail about improvements to the main bridleway in the village, to improve access to residents;
 - a further project to improve public footpaths by installing self-closing gates;
 - using 2016/17 costs as a basis for 2017/18 costs, as these are for materials and plant hire (the Council uses volunteers for the actual labour). In the previous year £1300 had been allocated to the work, which had been increased to £1500 for the period relating to the complainant's request.

This additional information was supplied directly by the Council to the complainant at the request of the Commissioner.

17. The Council noted that a similar request had been received by the complainant in January 2017, where it had explained the budgeting process used by the Council:

'The Parish Budget is set based on the predicted expenditure for the following year including, services, projects, salary, and other costs as detailed in the attached budget documentation. The Parish Council is actively involved in a range of Parish Improvement projects and services divested by the District and County Council all of which require funding.'

The Council also provided budget information from 2010-17 as part of its response to the January request.

18. The Commissioner notes that the Council considers its responses to other information requests received from the complainant to have covered information held within the scope of this request (section 14(2)). However, this was not explained to the complainant, and the Council did not reference which specific information it had already supplied to the complainant that would cover his request. If the Council was relying on section 14(2) in its response, it should have made this clear.
19. The complainant holds that the Council are deliberately refusing to respond simply and clearly to his request. Based on the information seen by the Commissioner and responses provided to her, she has no reason to believe that this is the case. However, as the Council held information within the scope of the request that was only supplied in response to her investigation, the Council has failed to comply with section 1 of the FOIA and section 10 of the FOIA.

Other matters

20. There is no obligation under the FOIA for a public authority to provide an internal review process. However, it is good practice to do so, and where an authority chooses to offer one, the code of practice established under section 45 of the FOIA sets out, in general terms, the procedure that should be followed. The code states that reviews should be conducted promptly and within reasonable timescales.
21. The complainant made his request to the Council on 6 April 2017. The Commissioner took his expression of dissatisfaction with the response, made on 1 May 2017, to constitute a request for a review, and asked the Council to undertake one by 9 June 2017.

22. Although the Council responded within the appropriate timescale (1 June 2017), the Commissioner does not consider the Council's response demonstrates that it undertook an internal review of the original response. She therefore recommends that in order to comply with the code, the Council ensures it has appropriate procedures in place for undertaking internal reviews of requests for information.

Right of appeal

23. 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

24. 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.
25. 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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