

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 22 November 2023

Public Authority: Swannington Parish Council

Address: clerk@swanningtonparishcouncil.org.uk

Decision (including any steps ordered)

1. The complainant has requested various information about quotes sought for specific works. Swannington Parish Council ("the Council") issued a response in which it provided some information.
2. The Commissioner is not satisfied that the Council has identified and provided all the information held that is relevant to the request. He has therefore decided that, on the balance of probabilities, the Council holds further information that falls within the scope of the request.
3. The Commissioner requires the Council to take the following steps to ensure compliance with the legislation.
 - Issue a fresh response to the request following a thorough search that identifies all the information the Council holds that falls within the scope of the request. Any further information that is identified should either be disclosed to the complainant, or an adequate refusal notice issued.
4. The Council 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 23 May 2023, the complainant wrote to the Council and requested information in the following terms:

"In relation to March 2023 SPC minutes relating to item:

577/2023. GROUNDS MAINTENANCE CONTRACT

Three quotes were received for the annual works. These were reviewed by email due to time restraints.

RESOLVED: To ratify the decision to go with the lowest quote at a cost of £6,720.00 pa.

Please provide the following information.

- **SPC tenders policy, selection criteria of parties to be invited to tender, selection policy.**
- **Criteria on how these companies / individuals were selected to provide a tender and who compiled this list and specification? Was and when was this approved by SPC?**
- **How many companies were invited to tender? And who?**
- **How many companies provided and or declined to tender?**
- **Copy and dates of issue of the notice inviting tenders – including parameter and specification of the works to be included in tender, qualifications working practices metrology?
Did and in what way, did this tender request vary from the previous contractor tender?**
- **Dates tenders received and from whom?**
- **The reason the successful tender was selected? What post tender negotiations took place? And outcome?**
- **Why was tender selection undertaken via email? Please provide record, communication and discussion of those involved in decision making process?**
- **Please provide details and dates of how the successful and unsuccessful tenders were informed.**
- **What referencing was undertaken including Assessment of appropriate qualifications, environmental credentials?**

- **Is the work being completed by a 3rd party?"**
- 6. The Council responded on 2 June 2023. It issued a response which it provided written answers to the requests but did not disclose any held documents or apply any exemptions.
- 7. On 29 June 2023, the complainant asked for an internal review to be undertaken, on the basis that the Council had not issued a full response under the terms of FOIA.

Scope of the case

- 8. The complainant contacted the Commissioner on 9 August 2023 to complain about the way their request for information had been handled, and specifically that the Council was likely to hold further information.
- 9. The Commissioner will decide whether, on the balance of probabilities, the Council has provided all held information relevant to the request.

Reasons for decision

- 10. Under section 1(1) of FOIA anyone who requests information from a public authority is entitled under subsection (a) to be told if the authority holds the information and, under subsection (b), to have the information communicated to them if it is held and is not exempt information.
- 11. In scenarios 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 Commissioner, following the lead of a number of First-tier Tribunal (Information Rights) decisions, applies the civil standard of the balance of probabilities.
- 12. In other words, in order to determine such complaints, the Commissioner must decide whether on the balance of probabilities a public authority holds any - or additional - information which falls within the scope of the request (or was held at the time of the request).
- 13. In the circumstances of this case the Commissioner understands that the Council has sought to comply with the request by answering the specific questions.
- 14. The Council has since informed the Commissioner that it considers it likely that further information (such as documents) will be held, and which has not been considered in response to this request.

15. As such, the Commissioner must conclude that further information is likely to be held, and that the Council has therefore not complied with section 1(1).

Other matters

16. The Commissioner reminds the Council that the FOIA provides a right of access to 'recorded' information. Whilst there will be situations where the Council is able to respond to a simple information request by providing an answer, in cases where a request clearly seeks detailed information, the Council should consider what documents (e.g., emails, reports, meeting minutes, etc.) it holds that contains such information.
17. The Commissioner also reminds the Council that, where a requester contacts it to explain that they are dissatisfied with the Council's response to their request, it should seek to provide an 'internal review' where it can reconsider the earlier response, and if necessary, revise it. In the circumstances of this case, the provision of an internal review may have resolved the complainant's concerns without the need to complain to the Commissioner.
18. The Commissioner refers the Council to his published guidance on internal review. This guidance can be read here:
<https://ico.org.uk/for-organisations/foi-eir-and-access-to-information/guide-to-freedom-of-information/refusing-a-request/#20>

Right of appeal

19. 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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

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

20. 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.
21. 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

Daniel Perry
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF