

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 31 October 2011

**Public Authority:** Stamford Town Council  
**Address:** Town Hall  
St. Marys Hill  
Stamford  
PE9 2DR

### Decision

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1. The complainant requested information about matters recorded in minutes of a meeting of Stamford Town Council ('the council').
2. The Commissioner's decision is that the council has not demonstrated that it was entitled to rely on section 42. He consequently requires the council to either comply with section 1(1) or issue a valid refusal notice compliant with section 17.
3. 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 (or the Court of Session in Scotland) pursuant to section 54 of the Act and may be dealt with as a contempt of court.

### Request and response

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4. On 10 January 2011 the complainant emailed the council. She included a schedule making further points in an ongoing exchange with the council regarding minutes of one of its meetings. Some of these comments constituted requests for information. They are listed at Annex A.
5. On 3 May 2011 the council responded and stated that further information was withheld under section 42(1) of the Act. This position was upheld in an internal review of 25 July 2011.

## Scope of the case

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6. The complainant contacted the Commissioner to complain about the way her request had been handled.

## Reasons for decision

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### *Section 42*

7. The council withheld the requested information under section 42 of the Act. The exemption at section 42(1) applies where information is subject to legal professional privilege. Legal professional privilege protects the confidentiality of communications between a lawyer and client.
8. The council has applied this exemption on the basis that it is planning to institute legal proceedings against the organisation represented by the complainant. However, the Commissioner notes that the withheld information does not appear to constitute communications from a lawyer. The Commissioner therefore does not accept that the exemption at section 42 is engaged.
9. The Commissioner therefore requires the council to comply with section 1(1) by confirming whether the requested information is held, and if so, disclosing it to the complainant. The Commissioner would emphasise that the Act does not require a public authority to create information in response to a request. However, if information within the scope of a request is not held then a public authority must state that this is the case.

## Right of Appeal

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10. 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: 0116 249 4253

Email: [informationtribunal@hmcts.gsi.gov.uk](mailto:informationtribunal@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm](http://www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm)

11. 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.
12. 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**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**

## Annex A

- 1) Can you provide specific examples of where the council feels the issues we have raised with them have been inappropriate?
- 2) Can you please explain why Cllrs Tuner and Binder did not dispute this point until some two months later via the RESAG minutes?
- 3) I would be grateful if you could direct me to the specific comments that were considered rude and unsatisfactory.
- 4) We would be very grateful if you could advise us what the 'reasonable' grounds are upon which the council has required that our accounts be audited and how they feel this will help them assess the sustainability of the event?
- 5) Can you please explain why the Council feel that independently examined accounts compiled in line with statutory requirements are not an acceptable alternative to fully verified audited accounts?
- 6) ...we would ask if the decision to require us to provide accounts in this form has now been reviewed as we requested...?
- 7) Can you please confirm for clarity whether the provision of verified audited accounts is now being required by the Town Council:
  - a) for all users of its facilities
  - b) in support of all grant applications made to STC
- 8) Can you please explain why these meetings [to discuss financial sustainability] have been delayed?
- 9) ...can you please explain where the misconception that our plans included a longer music festival arose from?
- 10) Can you please confirm that you did in fact already have this information [about the plans for the cultural Olympiad?]
- 11) Will you please therefore confirm that the council had received outline details of what Riverside planned for 2011 in July 2010 with further details provided in September 2010... (repeated at question 33)
- 12) Will you please confirm that the council are and have been aware of the official capacity of the site as outline above?
- 13) Will you please confirm that the Town Council raised no objections through RESAG that remained unresolved about the capacity of the site or size of the event during the consultations about the

revised Premises Licence prior to the submission of the new Premises Licence application?

- 14) Can you please explain what specific concerns the council have that remain unaddressed by this process? (repeated at question 20)
- 15) ...provide us with details of any evidence the contrary [that Riverside has a proven track record of low crime, disorder and injuries in relation to the size of the event] and explain why any such evidence has not been brought to the attention of RESAG through the agreed channels of communication?
- 16) Can you please confirm if there are any specific issues or concerns that the council or councillors have on this point [the issue of Riverside "collecting" grants]? (repeated at question 24)
- 17) Can you please explain provide specifically in what way STC believe there is a lack of transparency?
- 18) Do Stamford Town Council have evidence to suggest financial mismanagement?
- 19) Can you also please confirm whether you will now be carrying out a financial sustainability assessment of all users of land owned or managed by the Council?
- 20) How does the councillors unanimous decision that we need to provide verified audited accounts when they were fully aware that we could not legally comply with this requirement fit with their duty to uphold the law?
- 21) How does their refusal to provide copies of draft documents under discussion comply with their duty of openness and transparency?
- 22) How does their decision making in sessions closed to the public and press ... equate to their requirement for openness and transparency?
- 23) Will you please explain why despite repeated requests made since June 2010 information about the use of council facilities has not been provided to us?