

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 1 September 2022

Public Authority: Spennymoor Town Council
Address: Town Hall
Spennymoor,
County Durham
DL16 6DG

Decision (including any steps ordered)

1. The complainant has requested information from Spennymoor Town Council ("the Council"), regarding the decision to use a specific flag during the Remembrance Sunday parade and how the decision was made on which organisation's names should be read out for the wreath laying.
2. The Commissioner's decision is that, on the balance of probabilities, the Council does not hold any further information in relation to the request and therefore, the Council has complied with section 1(1) of FOIA.
3. The Commissioner therefore does not require the Council to take any corrective steps.

Request and response

4. On 12 November 2021, the complainant wrote to the Council and requested information in the following terms:

"At the Town Council's Policy and Resources Committee Meeting held on Tuesday, 7th September, 2021, Members made the decision that the town's ceremonial Union flag would be carried along side [name redacted] personal Union flag on this year's Remembrance Sunday Parade, which had been organised by the Town Council.

However, on Friday, 12th November, 2021, Members were informed via email, that only [name redacted] Union flag would be carried on the Remembrance Sunday Parade.

Please provide answers to the following questions:

1. Was there a meeting of Members, so Members could overturn their previous decision of having the town's ceremonial Union flag on this year's Remembrance Sunday Parade?
2. If no meeting of Members had taken place for them to reverse their previous decision to not allow the town's ceremonial Union flag to be carried on this year's Remembrance Sunday Parade, who then made the decision to go against the Members decision to have the town's ceremonial Union flag carried on this year's Remembrance Sunday Parade?
3. What authority did this person(s) have to override the decision of Members and please provide evidence of this authority?

In the Spennymoor News dated Saturday, 13th November, 2021, Spennymoor Town Council had placed an advert entitled 'Remembrance Service and Parade Sunday 14th November 2021' and in that advert it stated:

"The Town Council will be reading out wreath layers in accordance with a list supplied from the Royal British Legion."

Please provide answers to the following questions:

1. The Royal British Legion's Poppy Appeal Organiser supplied the Town Council, on request, with a list of 55 organisations that wanted to lay their respective poppy wreaths at the town's war memorial on Remembrance Sunday as part of the town Council's organised Remembrance Sunday event, but not all of those 55 organisations names were read out to lay their wreath, so why did the Town Council put a false statement in the Spennymoor News when the reading out of wreath layers was not done in accordance with the list supplied from the Royal British Legion?
2. How many of those 55 organisations that were listed to have their names read out to lay their wreath were actually called out?
3. The Royal British Legion's Poppy Appeal Organiser approached the Parade Marshal and asked him why he didn't call out all the wreath layers on the list that she had been asked to provide by the Town Council and he informed her that he had been instructed to only read out those organisations with a 'tick' next to their names:

- a. Why did certain organisations have a tick next to their name?
 - b. When was the decision made to only call out those organisations with a tick next to their names since this was not mentioned in the Town Council's advertisement in the Spennymoor News?
 - c. Who made the decision to go against the Town Council's advertisement in the Spennymoor News to only call out those organisations with a tick next to their names?
 - d. Did this person(s) have the authority to make the decision to go against the Town Council's advertisement in the Spennymoor News to only call out those organisations with a tick next to their names and if they did, please provide evidence of this authority?"
5. The Council responded on 1 December 2021. It stated that it does not hold the information that has been requested.
 6. Following an internal review the Council wrote to the complainant on 28 January 2022. It provided a copy of an email to the complainant, in relation to the request about the flags being chosen. It also confirmed that the majority of correspondence was by telephone or verbally and, therefore, there were no other written records in relation to the request.

Scope of the case

7. The complainant contacted the Commissioner on 6 January 2022 to complain about the way their request for information had been handled.
8. The Commissioner considers that the scope of the request is to determine, on the balance of probabilities, whether the Council holds any further information and if it has complied with section 1(1) of FOIA.

Reasons for decision

9. Section 1(1) FOIA provides that:

"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."

10. The Commissioner has sought to determine whether, on the balance of probabilities, the Council holds the requested information.
11. The Council has explained to the complainant that it has carried out a thorough search and has established that it does not hold the requested information.
12. It also explained to the complainant that their right to ask for information only relates to information held in formats such as a paper document, computerised records, printouts, maps, plans, microfilm, microfiche, audio-visual material etc. It advised that no such material is held by the Council.
13. The Council did, on internal review, provide the complainant with an email (which the complainant had received when it was originally sent out), which partially answered the first part of the request in relation to the flags being carried at the ceremony.
14. The Council explained in the internal review that the matter regarding the flags had to be dealt with urgently, so the email it provided had been sent. However, all other correspondence was done by telephone and/or verbally and, as such, no written records are held in relation to the request.
15. Having considered the circumstances, the Commissioner accepts the Council's position that it does not hold any further recorded information in relation to the complainant's request. As such, the Commissioner has decided that the Council has complied with section 1(1) of FOIA.

Right of appeal

16. 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

17. 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.
18. 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

Michael Lea
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