

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 15 August 2022

Public Authority: Spennymoor Town Council
Address: Town Hall Buildings
High Street
Spennymoor
County Durham
DL16 6DG

Decision (including any steps ordered)

1. In a nine part request, the complainant has requested information about a Facilities and Recreation Committee meeting. Spennymoor Town Council ('the Council') disclosed information relevant to one part and has advised it does not hold recorded information within scope of the remaining eight parts.
2. The Commissioner's decision is as follows:
 - On the balance of probabilities, the Council holds no further recorded information relevant to the complainant's request and 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 January 2022, the complainant wrote to the Council and requested information in the following terms:

"I would the Town Council to provide answers to the following questions please.

1. Who made the decision to close the above F&R meeting to the press and public for 'health and safety' reasons?
 2. How is the person who made the decision to close the above F&R meeting suitably qualified to determine the outcome from the risk assessment process?
 3. What did the person who made the decision to close the above F&R meeting reasonably foresee was likely to happen that would have the potential to cause significant injury or harm for them to close the meeting to the press and public?
 4. Prior to the above F&R Meeting commencing, why wasn't the Council informed that the meeting had been closed to the press and public, so they could make a decision on how to proceed with the meeting?
 5. Who from the Town Council made contact with CDALC, what was the date and was the communications written?
 6. If the communications with CDALC was written can you please provide all copies of these communications?
 7. If the communications was telephone, which telephone number was used?
 8. Can you please provide a copy of the authority that states the advice given by CDALC that it believed the Town Council did not break the law in closing the above F&R Meeting to the press and public on health and safety grounds is permitted since there is no provision in the Public Bodies (Admission to Meetings) Act 1960 for a meeting to be closed on health and safety reasons to the press and public without a decision being made by the Council?
 9. Can you please provide a copy of the authority that states in a genuine health and safety concern that an Officer, Member or the Council, without a vote being taken, is allowed to act extra ordinary in closing the above F&R Meeting to the press and public on health and safety grounds since there is no provision in the Public Bodies (Admission to Meetings) Act 1960 for a meeting to be closed on health and safety reasons to the press and public without a decision being made by the Council?"
5. The Council responded to the request on 3 February 2022. It advised that it had carried out a thorough search and that it does not hold recorded information within scope of parts 1 – 8 of the request. The Council disclosed information relevant to part 9 of the request.

6. Following an internal review the Council wrote to the complainant on 23 March 2022. It advised that FOIA concerns recorded information only. The Council referred to the Commissioner's published guidance in which he states that fact and that FOIA does not cover information that is in someone's head.
7. The Council noted that on the evening that an urgent issue had arisen, which led to the complainant's request, they had received a verbal explanation of the events from the Chair of the Facilities and Recreation Committee meeting. The Council confirmed that it holds no further relevant information, other than that which it had disclosed.

Scope of the case

8. The complainant contacted the Commissioner on 10 May 2022 to complain about the way their request for information had been handled.
9. The Commissioner has considered whether, on the balance of probabilities, the Council holds recorded information within scope of parts 1 – 8 of the complainant's request and whether it has complied with section 1(1) of FOIA.

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. As the Council has pointed out to the complainant, FOIA concerns recorded information only. It does not require a public authority to answer general questions, provide opinions or explanations.
12. The Commissioner has reviewed parts 1 – 8 of the complainant's request and notes that, for the most part, these are framed as general questions rather than requests for specific pieces of recorded information. For example, it would be difficult to identify what recorded information the complainant expected to receive in response to parts 3 and 4 of their request.
13. The Council advised the complainant that it had carried out a thorough search and had not identified any other relevant information, other than that disclosed in response to part 9 of the request. The Commissioner

sees no reason to doubt the Council's explanation. Other than state their view that the Council could provide the information if it wanted to but has chosen not to, the complainant has not provided any evidence or reasoning that would indicate that the Council does hold further relevant information.

14. Having considered all the circumstances, the Commissioner therefore accepts the Council's position that it does not hold recorded information that would address the complainant's eight questions. As such, the Commissioner has decided that the Council has complied with section 1(1) of FOIA.

Right of appeal

15. 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

16. 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.
17. 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

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