

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 16 January 2023

Public Authority: Desborough Town Council
Address: Desborough Library Building
High Street
Desborough
Northamptonshire
NN14 2QS

Decision

1. The complainant requested information from Desborough Town Council ("the Council") relating to a project to upgrade a CCTV system.
2. The Commissioner's decision is that the Council has failed to carry out adequate searches for information held within the scope of the request and therefore, on the balance of probabilities, has not identified all information held within the scope of the request.
3. The Commissioner requires the Council to take the following steps to ensure compliance with the legislation.
 - The Council must issue a fresh response to the request following searches aimed at identifying all information held within the scope of the request.
4. The Council must take this step 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 FOIA and may be dealt with as a contempt of court.

Request and response

5. The complainant made the following information request to the Council on 23 April 2022:

"I request to view all correspondence between Desborough Town Council (DTC) and Kettering Borough Council (KBC), subsequently North Northamptonshire Council (NNC), regarding the recent project to upgrade the Closed Circuit Television system in Desborough. In particular:

1. The minutes or notes of the meeting between DTC, KBC and CVL Systems Ltd held at Desborough Library on 23 May 2019.
2. The subsequent contract or agreement made between DTC and KBC following the approval to go ahead made by DTC at its full council meeting on 18 July 2019.
3. A detailed breakdown of the capital costs quote of £54,228 as submitted to the full council meeting of DTC held on 19 September 2019. This must include full details of the particular equipment that was ordered and was the subject of that quote.
4. A breakdown of the costs set aside for the subsequent CCTV Licence training of volunteers to operate at the Federation Avenue Police Station as approved by the full council meeting of DTC on 19 September 2019.
5. A detailed breakdown of the additional costs that resulted in the budget increasing to £65,000 as quoted to DTC at its full council meeting on 19 November 2020.
6. All written correspondence, emails and notes of telephone conversations that resulted in the subsequent changes to the contract/agreement.
7. The name of the person who subsequently decided that the use of the Federation Avenue facility with volunteers would not go ahead and the date of that decision.
8. A detailed breakdown of the capital costs that resulted in the increase of the budget to £70,600.30 as submitted to the full council meeting of DTC held on 22 April 2021. This must include full details of the particular equipment that was ordered and was the subject of that quote.

9. The amounts and dates of all financial transactions of DTC precept money transferred to KBC or NNC relating to the project.”
6. The Council responded on 7 June 2022 and provided the complainant with some information within the scope the request. It stated that some information within the scope of the request was already available on the Council’s website and denied holding some information within the scope of the request.
7. On 11 June 2022, the complainant requested an internal review. By the date of this notice, the Council has not provided the complainant with the outcome of its internal review.

Reasons for decision

8. This reasoning covers whether the Council holds further information within the scope of the request.
9. The complainant considers the Council to hold further information within the scope of their request which has not been disclosed. They consider that the Council has not provided them with the detailed breakdown of the capital costs quote that was requested in part 3 of the request.
10. The complainant also considers the Council to hold correspondence between the Council and Kettering Borough Council relating to the project to upgrade CCTV which falls within the scope of their request. In their internal review request, the complainant explained that Council meeting minutes suggest that extensive correspondence has taken place between the Council and Kettering Borough Council relating to the project however, that correspondence has not been disclosed.
11. The Council considers that it has provided the complainant with all the information it holds within the scope of the request. In its response to the request, the Council denied holding information within the scope of parts 1, 2, 4, 5, 6 and 7 of the request. It provided the complainant with information within the scope of parts 8 and 9 of the request and stated that information within the scope of part 3 of the request could be located on its website in the minutes from a Council meeting held on 19 September 2019.
12. Based on the Council’s response to the request, it appears to the Commissioner that when searching for information within the scope of the request, the Council has only searched for information that falls within the scope of the parts 1 to 9 of the request. The Council has not

searched for information which falls within the scope of the following part of the request:

"all correspondence between Desborough Town Council (DTC) and Kettering Borough Council (KBC), subsequently North Northamptonshire Council (NNC), regarding the recent project to upgrade the Closed Circuit Television system in Desborough."

13. Therefore, the Commissioner considers that the Council has failed to conduct adequate searches for the information held within the scope of the request. The Commissioner's decision is that on the balance of probabilities, the Council has not identified all the information it holds within the scope of the request.
14. The Commissioner requires the Council to issue the complainant with a fresh response to the request in its entirety following searches aimed at identifying all information held within the scope of the request. If the Council locates further information within the scope of the request, that information should either be disclosed to the complainant or an adequate refusal notice should be provided.

Other matters

15. The Commissioner cannot consider in a decision notice the amount of time it took a public authority to complete an internal review because such matters are not a formal requirement of FOIA. However, it is good practice to offer an internal review, and, where a public authority chooses to do so, the code of practice established under section 45 of 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.
16. The Commissioner has interpreted this to mean that internal reviews should take no longer than 20 working days in most cases, or 40 working days in exceptional circumstances. By the date of this notice, the Council has not provided the complainant with the outcome of its internal review, seven months after it was originally requested. The Commissioner considers that the Council has failed to act in accordance with the section 45 code of practice.
17. The Commissioner is also disappointed in the quality of the engagement the Council has had with his office. As part of his investigation, the Commissioner offered the Council the opportunity to provide him with further information to support its position. However, by the date of this notice, the Council has failed to provide the Commissioner with any supporting information.

18. The Commissioner will log his concerns and they will be used when considering the overall compliance of the Council with the FOIA.

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: 0300 1234504

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

Ben Tomes
Group Manager
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Wycliffe House
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SK9 5AF