

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 17 June 2024

Public Authority: Potto Parish Council
Address: pottopc@btinternet.com

Decision (including any steps ordered)

1. The complainant has requested information from Potto Parish Council ("the council") relating to an 'annual review'.
2. The Commissioner's decision is that on the balance of probabilities, the council does not hold further information within the scope of the request.
3. The Commissioner does not require the council to take any steps.

Request and response

4. On 30 July 2023, the complainant wrote to the council and requested information in the following terms:

"Please provide information in the council's records that includes (with ref to the review required by S6(1)(a) above):

 - 1) the most recent date (of any year) this review was carried out.
 - 2) the nature of this 'review of the effectiveness of the system of internal control' as per S6(1)(a) and,
 - 3) the council's recorded results about the 'effectiveness' of this statutory annual review."
5. The council responded on 9 October 2023. It stated that all held information falling within scope of the request was available on its

website in the form of the "Annual Return and an Annual Governance Statement".

6. Following an internal review the council published its response in the public minutes of 21 November 2023. It maintained its original response.

Reasons for decision

The council's position

7. In the council's submissions, it has explained its interpretation that the request seeks information relating to its yearly 'Annual Return' which is a statutory review on its governance. As part of this the council creates a 'Annual Governance Statement', all of which are dated and published on its website under 'Annual Returns'¹.
8. The council asserts that all recorded information relevant to the request is considered to be publicly available, and besides that public information which the complainant has been directed to, no other recorded information is understood to be held. The Parish Clerk has reviewed the council's records that are not published on the website, but has not identified other recorded information that it considers relevant to the request.

The Commissioner's position

9. The Commissioner has considered the request, and the council's position. The Commissioner notes that documents relating to the Annual Return are published on the council's website, alongside all other documents it publishes, such as meeting minutes and agendas, and policies and procedures.
10. The complainant has asserted that the council should have taken specific actions in respect of this Annual Review and should be able to demonstrate these. The complainant indicates they have read all of the council's minutes and cannot find evidence of these actions.
11. The terms of FOIA relate solely to recorded information, and a public authority is only required to consider what recorded information is held that falls within the parameters of a request. A public authority is not

¹ <https://potto.org.uk/ppc.php>

required to create information to respond to a request, nor to provide statements to questions.

12. In this case, the Commissioner's determination is limited to whether the council holds further recorded information. The Commissioner cannot consider whether the council should have taken the actions referred to in the request, as this is not a matter that falls under FOIA.
13. The Commissioner considers that the council has provided a cogent explanation of why all relevant recorded information is considered to be that published on the website, and that it has not identified any non-published information relevant to the request. There is no evidence available to the Commissioner to suggest that other recorded information must be held.
14. Therefore, the Commissioner's decision is that on the balance of probabilities the council does not hold further information within the scope of the request.

Procedural matters

15. The council failed to respond to the request within the statutory time period, the Commissioner has therefore found a breach of 10(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.

Daniel Perry
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