

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 22 November 2023

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

### **Decision**

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1. The complainant requested information about an action plan relating to an audit report. Potto Parish Council (the "council") confirmed that it had provided all the information that it held.
2. The Commissioner's decision is that, on the balance of probabilities, the council has correctly confirmed that it has disclosed all the relevant information that it holds.
3. The Commissioner does not require the council to take any steps.

### **Background**

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4. As the lowest tier of local authority, parish councils generally have very small budgets and limited powers. They typically focus on activities such as managing parks, car parks, footpaths, community centres, cemeteries, and other local amenities. The only power available solely to parish councils is to obtain land for use as allotments. More broadly, parish councils exercise a general consultative role on behalf of local people: for instance, they have statutory consultation rights on planning matters.
5. Potto Parish Council is a small rural authority serving a population of some 300 residents. It recently became the focus of attention in local

and national media after it received hundreds of complaints which triggered an external audit resulting in residents being asked to pay an higher precept<sup>1</sup>.

6. Paragraph 1 of Schedule 7 of the Local Audit and Accountability Act 2014 ('the 2014 Act') requires an auditor to consider whether, in the public interest, it should make a report on any matter coming to its notice during an audit relating to an authority, so it can be considered by an authority or brought to the public's attention<sup>2</sup>.
7. A local government elector ('the objector') made a series of objections relating to the council's accounts for the years ended 31 March 2017, 2018, 2019 and 2020. The auditor considered some of these objections and in July 2022 issued a Public Interest Report (the "PIR") so that the matters would be considered by the council and brought to the attention of the public.
8. One of the recommendations of the PIR was that the council should prepare an action plan setting out its response to PIR (the "action plan"), including clear actions with dates for completion and responsibilities for implementation.
9. The council produced and published an action plan which confirmed the actions that it had taken in response to the PIR.
10. The complainant's request sought information relating to actions taken by the council.

## Request and response

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11. On 9 April 2023 the complainant submitted the following information request to Potto Parish Council (the "council") via the "whatdotheyknow" website:

"I'm following the PIR action plan and see item 4.4 in the certified February 2023 meeting minutes - "Went through action plan and agreed that all points have been actioned accordingly".

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<sup>1</sup> See, for example: <https://www.thenorthernecho.co.uk/news/21250757.furious-residents-potto-north-yorkshire-may-pay-part-37k-bill/>

<sup>2</sup> <https://www.legislation.gov.uk/ukpga/2014/2/contents/enacted>

I want to request a pdf or similar copy of the information used by Potto Councillors as a basis to substantiate this agreement.

This information is NOT in the PIR action plan, as all the policies and procedures noted in the PIR action plan were found defective or inadequate in the July 2022 PIR.

If the 17 PIR Recommendations really have all been actioned professionally, information about fresh reviews and updates must be available.

Otherwise, I believe the February 4.4 agreement has no sound evidential basis.

Please ensure you have provided 17 pieces of information to show clearly how each of the 17 numbered PIR Recommendations were actioned on a particular date."<sup>3</sup>

12. On 17 April 2023 the council responded to the complainant and provided a copy of the PIR action plan.
13. On 21 April 2023 the complainant wrote to the council and complained that it had failed to provide the requested information or to confirm or deny whether it was held.
14. On 5 May 2023 the council responded to the complainant stating:  
  
"PPC responded to your request on the 17th April providing the Pdf information requested.  
  
The draft Action Plan was discussed at the PIR public meeting and the resulting published action plan produced."
15. On 13 May 2023 the complainant wrote to the council and asked it to confirm or deny whether it held the requested information.
16. On 6 June 2023 the council replied to the complainant, stating that a review of the request would be carried out at the next council meeting.
17. On 16 August 2023 the council sent its review response which stated:

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<sup>3</sup> [https://www.whatdotheyknow.com/request/information\\_to\\_verify\\_if\\_the\\_17#incoming-2440082](https://www.whatdotheyknow.com/request/information_to_verify_if_the_17#incoming-2440082)

18. "It was agreed that the response to your request was correct. Therefore no further action will be taken.

While providing this information It was noted that you are not a resident of Potto Parish, and that you would appear to be misrepresenting yourself, we refer you to the House Rules for Whatdotheyknow.com for further information."

19. On 9 October 2023 the council sent a further response to the complainant which confirmed that the council discussed the action plan at a public meeting. The council provided a link to the minutes of this meeting which were published on its website.

### **Scope of the case**

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20. On 6 August 2023 the complainant contacted the Commissioner to complain about the council's handling of their request.

21. The Commissioner has considered whether the council responded appropriately to the request and whether it disclosed all the relevant information that it holds. He has also considered broader practice matters raised by this complaint which are commented on in the Other Matters section of this decision notice.

### **Reasons for decision**

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#### **Section 1 – duty to provide information**

22. Section 1 of the FOIA requires public authorities to confirm or deny whether information specified in a request is held and, where it is, to provide it to a requester.

23. In this case the complainant requested the following information:

"I'm following the PIR action plan and see item 4.4 in the certified February 2023 meeting minutes - "Went through action plan and agreed that all points have been actioned accordingly".

I want to request a pdf or similar copy of the information used by Potto Councillors as a basis to substantiate this agreement.

This information is NOT in the PIR action plan..."

24. From an objective reading of the request, it is clear that the complainant was seeking information held by the council which supported its decision

to conclude that all actions in the action plan had been taken. However, in its responses to the complainant the council repeatedly failed to explicitly confirm or deny whether such information was held.

25. During the Commissioner's investigation the council confirmed that it does not hold any additional recorded information falling within the scope of the request. It confirmed that the decision to agree that the points in the action plan had been addressed was taken at a council meeting on 7 September 2022<sup>4</sup>. In effect, the decision to accept that the action plan had been complied with was made verbally and that, beyond the minutes of the meeting, no further recorded information was held.
26. The Commissioner appreciates why it is reasonable for the complainant to consider that information regarding decisions made in respect of the action plan might be held. As noted above, the events leading to the action plan were significant and, for both transparency and accountability purposes, one might expect that the council would wish to document its handling of the matter.
27. However, the FOIA is not prescriptive about the types of information which authorities should record and the Commissioner has no jurisdiction about broader governance issues at public authorities.
28. On the basis of the council's explicit assurances, the Commissioner has concluded that, on the balance of probabilities, it is likely that it has correctly confirmed that no further recorded information is held.

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<sup>4</sup> <http://potto.org.uk/docs/2019-20-PPC-PIR-Minutes-2022.09.07.pdf>

## Other matters

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29. Although they do not form part of this decision notice the Commissioner wishes to note a number of matters of concern about the council's practices.

### Approach to request handling

30. In its responses to this request the council suggested that the complainant might be using a pseudonym and that the request might, therefore, be invalid. It also suggested that the complainant was not a member of the parish.
31. Having reviewed other requests made to the council via the *whatdotheyknow* website, it became apparent to the Commissioner that these responses formed part of a general approach to all requesters.
32. Whilst it is the case that requests made under a pseudonym are invalid under the terms of section 8(1)(b) of the FOIA, the Commissioner's guidance states:

"In some cases it is immediately obvious that a pseudonym is being used....However, there may be situations where the name provided is not an obvious pseudonym and you have no reason to believe that a pseudonym is being used. It is the Commissioner's view that in such situations you should accept the name provided at face value.

Whilst this may mean that some pseudonymous requests will slip through the net, we do not envisage situations where you routinely carry out checks on requesters' identities."<sup>5</sup>

33. It is clear to the Commissioner that the council's general approach to request handling does not follow this guidance. In addition, there is no requirement for a requester to be a resident of the community which the public authority the request is made to serves.
34. The Commissioner considers that the available evidence suggests that the council's standard approach to requests does not represent good practice. He has raised these concerns with the council and received its agreement that it will no longer take this approach in its responses to

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<sup>5</sup> <https://ico.org.uk/for-organisations/foi-eir-and-access-to-information/freedom-of-information-and-environmental-information-regulations/recognising-a-request-made-under-the-freedom-of-information-act-section-8/#arepseudonymsvalid>

requests. He will monitor the council's future practice in these regards via complaints he receives.

35. Finally, as noted in the decision notice, the Commissioner is mindful that, as a small parish council, the council has limited resources and limited powers. He is aware that the council has received a number of requests about its governance and accounting practices and that these appear within the context of long-running concerns and grievances expressed by some members of the public. On the face of it the number of requests appears disproportionate to the size and powers of the council.
36. The FOIA is, of course, designed to promote transparency and accountability within public authorities and it is entirely appropriate that individuals wishing to understand or scrutinise council decisions should make requests for information. However, where an authority has limited resources, the Commissioner suggests that requesters take this into account when formulating and submitting requests and that, before making requests, they also consider whether other remedies are available.

## Right of appeal

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37. 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](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

38. 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.
39. 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 .....**

**Christopher Williams**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**