

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 2 June 2025

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

Decision (including any steps ordered)

1. The complainant requested information relating to the council's accounts and background information. Potto Parish Council ("the council") provided some information, however it said that no other information is held by it.
2. The Commissioner's decision is that the council does not hold the requested information.
3. The Commissioner does not require the council to take any steps.

Request and response

4. On 18 September 2024, the complainant wrote to the council and requested information in the following terms:

"Please provide this information by email, in accordance with the FOI Act.

Part 1 - Please provide me with copies of the Council's correspondence, as sent to and received back from the SAAA, seeking financial help for the Auditors invoice for £12,797.70 dated May 2024.

Part 2 - I see this invoice has the additional audit fees detailed by a separate cover. Please provide a copy of this separate cover.

Part 3 – I see the August 2024 minutes say, item 4.3, “it was agreed that the Final Report would be contested as it contains a number of errors.”

Please specify the errors in the Audit Final Report.

Part 4 – I see the August 2024 minutes say, item 4.11, “Amendments to minutes, some change of ICO case numbers together with outstanding changes were agreed.”

Please provide the item and page number of the minutes for each agreed amendment.

Part 5 – I see the Annual Report notes on your website say Note 5 – PPC has breached a number of regulations during the accounting period. Which regulations were breached and when?”

5. The council responded on 3 October 2024. It said that:

Part 1 – no information is held

Part 2 – no information is held

Part 3 – It said that at the time of the request a response was being prepared, but that it did not hold any information at the time that it provided its response.

Part 4 – it provided a list of the amendments.

Part 5 – it provided a list of the breaches.

6. Following an internal review the council wrote to the complainant on 21 October 2024. It maintained its position that no further information is held. However, it did ask the complainant to provide further information if they believed that there were any further breaches of the regulations.

Scope of the case

7. The complainant contacted the Commissioner on 5 December 2024 to complain about the way their request for information had been handled.

8. The scope of this case and of the following analysis is whether the council is likely, on the balance of probabilities, to hold the requested information for the purposes of section 1 of FOIA.

Reasons for decision

Section 1(1) – is further information held by the council

9. Section 1(1) of FOIA requires that a public authority must inform a requestor, in writing, whether it holds information falling within the scope of the request. If it does hold relevant information, it also requires that it communicates the information to the requestor, subject to any exclusions or exemptions applying.
10. In scenarios where there is some dispute between the amount of information held which a public authority says it holds, and the amount of information that a complainant believes is held, the Commissioner, following the lead of a number of First-tier Tribunal (Information Rights) decisions, applies the civil standard of the balance of probabilities.
11. In other words, in order to determine such complaints, the Commissioner must decide whether, on the balance of probabilities, a public authority holds any - or additional - information which falls within the scope of the request (or was held at the time of the request). For clarity, the Commissioner is not expected to prove categorically whether the information/further information is held.
12. In such cases, the Commissioner will consider the complainant's evidence and arguments. He will also consider the actions taken by the authority to search for relevant information, and will take into account any other reasons offered by the public authority to explain why the information is not held. Finally, he will consider any reason why it is inherently likely or unlikely that information is not held.

The complainant's position

13. The complainant argues that the council will hold further information falling within the scope of their request.

The council's position

14. The council argues that after carrying out appropriate and relevant searches it has not located any further information falling within the scope of the request. It provided further arguments as follows:

Part 1:

15. The council clarified that it has never held any relevant information. It confirmed that it has not had any correspondence with the SAAA about seeking financial help for the Auditors invoice of May 2024.

Part 2:

16. It said that the ICO has considered a request for this information previously, in decision notice IC-337960-L6Q7 (not available online). In that notice, which related to a request for Appendix A, the Commissioner's decision was that no information is held by the council.
17. The council confirmed that Appendix A statement is that:

"Additional charges (where applicable) as detailed on attached appendix A", and "Additional fees (where applicable) as detailed by separate cover".
18. However, it confirmed that there were no additional charges or fees and so no information is held by it. It said that it had also confirmed with its auditor that there were no Appendix A's associated with these invoices.

Part 3:

19. In its response to the complainant the council said that a response was in the process of being prepared but had not been completed at the time of the request. It said that no recorded information was therefore held by it at that time. It confirmed this position to the Commissioner in its response to his investigation letter.
20. The Commissioner notes that the minutes highlighted by the complainant in their request were dated 20 August 2024. The relevant section also includes a statement that:

"An Action Plan to address the points raised will be prepared for the next meeting together with a response to PKF Littlejohn."
21. The relevant section of the council minutes dated 17 September 2024 states that:

"Annual Returns 2023-24 - The response to the errors in the Final Report and Certificate together with the Decision letter from PKF Littlejohn were discussed."
22. The Commissioner notes that a response was still reported as "being discussed" in council minutes up to and including 20 May 2025.
23. The August council minutes only refer to an action plan being prepared for the meeting of the 17 September 2024. The request was received one day later. Its later minutes state only that its response was still under discussion.
24. The Commissioner has seen no evidence that one month after it had initially agreed to draw up an action plan, it had prepared or drafted a response to the extent that the errors had been identified and recorded.

Part 4:

25. The council confirmed that it has provided the information which it holds to the complainant, explaining the amendments as requested. It confirmed that it does not hold any further information.

Part 5:

26. The council said that it disclosed the information it holds via its audit notes on its website. It said that the information which it provided to the complainant in response to the request was therefore correct and that this was confirmed in its internal review response. It confirmed that it does not hold any further information.

Searches for information

27. As regards the searches it had carried out in order to locate relevant information, it explained that searches had been carried out of its emails and documents held within its IT system. Its searches were carried out using key phrases based on names, words and phrases. It considered that's 99% of its records are held in electronic form, this was considered to be the most accurate and easy way to conduct the document searches. It said that it uses a cloud-based storage system with all documents located in one domain. It confirmed that no relevant information was located.
28. It confirmed that no documents have been deleted or destroyed, and that the information would be held in accordance with its document retention policy.

The Commissioner's conclusion

29. The Commissioner has considered the arguments submitted by both parties. Whilst the complainant believes that further information will be held by the council, the council has described carrying out adequate and appropriate searches to locate any information falling within the scope of the request for information. It has also explained why it would not hold some of the information requested by the complainant.
30. There is no contradictory evidence available to the Commissioner that indicates the council's position is wrong.
31. On this basis the Commissioner has concluded that, on the balance of probabilities, the council does not hold any further information falling within the scope of the complainant's request for information.

Right of appeal

32. 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

33. 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.
34. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Ian Walley
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