ico. Information Commissioner's Office

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: **18 January 2022**

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

Decision (including any steps ordered)

1. The complainant has requested information with regards to trustee records.

2. The Commissioner's decision is that Potto Parish Council (the council) has breached section 10(1) of the FOIA as it has failed to respond to the request within the required 20 working days.

3. The Commissioner requires the council to take the following steps to ensure compliance with the legislation.

   - Issue a response to the complainant, to his 4 February 2021 information request in accordance with FOIA.

4. The council must take these steps 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 Act and may be dealt with as a contempt of court.

Request and response

5. On 4 February 2021, the complainant submitted an internal review request to the council with regards to an information request made on 19 December 2020. Within the internal review request at paragraph 12, the complainant made a supplementary request. That request being:

> *" ANY trustee records, of whatever title or type or nature, as held by Potto council. This information will likely include:- The Constitution. The Terms of Reference. The Governing Document (a legal document recording trustee status, etc)."*

6. The complainant told the Commissioner on 2 November 2021, whilst investigating his other complaint, that the above request had not been responded to.

7. The Commissioner advised both the complainant and council on 2 November 2021 that this should be treated as a new and separate request. The Commissioner asked the council to issue a response to the complainant, with regards to this request, within 20 working days.

8. The council responded to the Commissioner on 12 November 2021 and asked whether it needed to respond to this request as it considered it was a repeat of a previous request.

9. On 2 December 2021, the Commissioner responded to the council explaining that even if it considered it to be a repeat request, that it should respond to it in accordance with the FOIA.

10. The Commissioner contacted the council again on 9 December 2021 to determine if it had issued a response to this request. The Commissioner has received no response from the council to date.

Scope of the case

11. The complainant advised the Commissioner on 16 December 2021 that he still had not received a response to this request.

12. The scope of the case is for the Commissioner to determine whether the council has breached section 10(1) of the FOIA – time for compliance.

Reasons for decision

Section 10(1) of the FOIA

13. Section 10(1) of the FOIA requires a public authority to respond to an information request, in accordance with section 1 of the FOIA within 20 working days, following the request of the request.

14. In this case, the request was made on 4 February 2021 and to date, no response to this information request has been provided by the council to the complainant.

15. The Commissioner therefore finds that the council has breached section 10(1) of the FOIA as it has not responded within the required 20 working day time frame permitted by the FOIA.

16. The council must comply with the step ordered at paragraph 3 of this decision notice.

Right of appeal

17. 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

18. 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.

19. 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
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