

John Fullbrook

From: John Fullbrook
Sent: 03 February 2022 15:32
To: Paul Campbell
Subject: FOI Review Request Responses
Attachments: Cllr Campbell Review Panel FOI Response dated 3rd Feb 2022.pdf

Dear Cllr Campbell

Please find attached the agreed response from the FOI Review panel which met on the 31st January 2022 to discuss your three outstanding cases.

As I communicated previously, we would much appreciate knowing if you are considering a formal review request to my FOI response dated 31st January in consideration of the 13th October - Health and Safety re Adult Gym Equipment FOI Request, if you wouldn't mind.

Kind regards
John

John Fullbrook
Clerk to the Council
01903 812042

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Dear Cllr Campbell,

Subject: Review of FOIA Requests

As you have requested, and in accordance with the council's policy as agreed December 2016, a panel of councillors have reviewed the clerk's refusals of your recent requests for information under the Freedom of Information Act. The results of our review are set out below.

Review Panel: Cllrs Norcross, Young, Lloyd and Northam
Review Date: Monday 31st January 2022

FOI Request regarding Public Liability Insurance Issues.
Original FOI Request Date 10th and 30th September 2021
Refusal Date 3rd December 2021

After reviewing your original FOI request and your subsequent request for review dated 6th December, the panel agreed that the Parish Clerk was correct to refuse your request on the grounds that it is vexatious under Section 14 of the FOIA.

In particular, the panel believed that this request appears to be part of a pattern of frequent and overlapping requests along with other correspondence all targeted at the Parish Clerk against whom you appear to hold a personal grudge. Furthermore, the issue of play equipment and the associated insurance had been discussed at great length in council session and had been concluded; and the panel therefore agreed that your reopening of this issue to be unreasonable.

FOI Request regarding Third Party Claim against SPC
Original FOI Request Date 13th May 2021
Refusal Date 8th November 2021

After reviewing your original FOI request and your subsequent request for review dated 9th November, the panel felt that your request under Section 32 of the FOIA was not relevant as it refers to any court records held by the council, and having checked with the Clerk, there were no relevant court records held by the council at that time.

Furthermore, the panel is satisfied that there was no third-party claim against the council at the time of your FOI request and that this is still the case, so to submit a FOI request was inappropriate.

If you wish you may appeal to the Information Commissioner's Office who can be contacted as follows:

Helpline: 08456 30 60 60 or 01625 54 57 45
Fax: 01625 524510
By post: The Information Commissioner's Office, Wycliffe House, Water Lane,
Wilmslow, Cheshire, SK9 5AF
By email: notification@ico.gsi.gov.uk

For and on behalf of Steyning Parish Council, FOI Review Panel

John Fullbrook

Subject: FW: Review Request RE: New FOI Request and SAR re Third Party Claim against SPC

From: Paul Campbell <Sent: 09 November 2021 08:03

To: John Fullbrook **Subject:** Review Request RE: New FOI Request and SAR re Third Party Claim against SPC

Mr Fullbrook

Review request

Your sarcasm is completely ill-founded as well as, in my opinion, being inappropriate from someone who is complaining about poor staff/councillor relationships. The ICO did not "request" that I grant you more time – the ICO said that in fact I had granted you too much time under the original request and, as I reported, she "advised" that in consequence I should renew the request and then not grant you any further voluntary extensions of time. It is really the opposite of your interpretation.

Despite your statement that it is not "a question of being evasive", I am afraid that evasiveness is exactly what seems to be happening here. If there is a potential claim against the Council then all councillors, but particularly those on the F and GP Committee are entitled to a full report.

Up until now the indication was that there was a "potential claim" against SPC. Now you are saying there is an actual court case.

If that court case involves SPC then even more so is it the case that all councillors and particularly those on the F and GP Committee should have had a full report.

However, I believe that you are somewhat evasively implying that there is an ongoing court case concerning SPC when in fact that is not the case. The only ongoing court case of which I am aware is one brought by Cllr Rodney Goldsmith in his personal capacity against Mr Bissett Powell. That case which has been going on for the best part of two years has nothing whatsoever to do with SPC which is not a party. Any papers in that case which might have found their way to SPC are not covered by s32, the potentially relevant part of which I have set out below for ease of reference. I also attach the ICO Guidance to s32.

To fall within the s32(1)a exemption the documents would have to be held by SPC only by virtue (and note the use of the word ONLY) of it being information contained in any document filed etc with a court for the purpose of the proceedings. If I am right in conjecturing that Mr Bissett-Powell has sent SPC any of the pleadings etc filed in the Goldsmith v Bissett Powell case then they do not satisfy the "only" requirement. They are in SPC's possession because Mr B-P has voluntarily lodged them with SPC, not because they have been filed at court. Furthermore, if a potential claim has been intimated against SPC by a third party (which is what you said was the case) then that potential claim document has not been filed with the court at all and so is not covered by the s32(1)a exemption.

Nor does intimation by a third party of a potential claim fall within the s32(1)b) exemption. Only if SPC was a party to the ongoing proceedings and something within those proceedings – such as contribution proceedings – had been served on SPC would such a document be covered. If my summise that the case is Goldsmith v Bissett-Powell then it is known with certainty that SPC is not a party and has not been served with anything within that action. Accordingly the exemption does not apply.

The intimation of a potential claim by a third party does not fall within the s32(1)c) exemption either. It was not created by the court nor by a member of its administrative staff which is what the provision requires.

S 32(2) is not relevant. There is no inquiry or arbitration.

In any event, s32 does not apply to my separate Subject Access Request.

Please urgently review this very long outstanding matter and let me have the documents and information. Please note that the ICO does require refusals to state the 40-day time limit for making a review request. That information was accidentally omitted from your refusal. The ICO makes plain that I should expect the review to be completed within 20 working days. I calculate that to expire on 6 December 2021. Given the straight-forward nature of what has to be reviewed concerning s32 and the clear ICO guidance I have attached I believe it should be possible to complete the review well within the time limit.

Thank you

CLlr Campbell (s32 wording follows).

S32 "Court records, etc.

(1) Information held by a public authority is exempt information if it is held only by virtue of being contained in—

(a) any document filed with, or otherwise placed in the custody of, a court for the purposes of proceedings in a particular cause or matter,

(b) any document served upon, or by, a public authority for the purposes of proceedings in a particular cause or matter, or

(c) any document created by—

(i) a court, or

(ii) a member of the administrative staff of a court,

for the purposes of proceedings in a particular cause or matter.

(2) Information held by a public authority is exempt information if it is held only by virtue of being contained in—

(a) any document placed in the custody of a person conducting an inquiry or arbitration, for the purposes of the inquiry or arbitration, or

(b) any document created by a person conducting an inquiry or arbitration, for the purposes of the inquiry or arbitration."