

John Fullbrook

From: Paul Campbell
Sent: 14 August 2023 09:03
To: John Fullbrook
Cc: Joanna Norcross; Deborah Hanson; Charlotte Lloyd; Andrew Sharp; Vicci Johnson
Subject: Fol/ Review Request to Fol Panel re Requests of May and November 2021.
Attachments: Signed Decision Notice 30 Aug 2022.pdf; Chronology up to 7 February 2022.docx; Cllr Campbell Review Panel FOI Response dated 3rd Feb 2022.pdf; SPC Refusal 4 Oct 2022 and Campbell Response to that.docx

Dear John (cc Fol Panel),

Thank you for your message of 21 July 2023 correctly acknowledging that although not expressly stated as such, my message of 18 July 2023 below should be treated as my third Fol request for exactly the same documents which you have been resisting disclosure of since May 2021. I did not want this to be done through the Fol process, much preferring that you simply comply with the Hoey recommendations and ensure that as a councillor on the relevant committee I be given the documents in satisfaction of my need to know rights. Regrettably, you appear determined not to comply with Hoey and so you leave me no option but to pursue this route as I still wish to have the withheld information which is pertinent to my work on the Finance and General Purposes Committee.

This matter has already brought about one decision from the ICO rejecting your clearly false claim that SPC did not hold the documents. The ICO reported you as saying "*The final position of the Council was that it does not hold information within the scope of the request*". After the ICO in the Decision Notice required you to think again you then admitted what you had already previously acknowledged to me – that in truth the Council DID hold such documents.

I regret I am unable to square your explanation and apology of 4 October 2022 saying that in telling the ICO that SPC DID NOT hold relevant documents you had misunderstood the request and had failed to appreciate that it was for claims intimated rather than for claims made. Your claim of a misunderstanding seems to me completely inconsistent with your much earlier acknowledgement to me that SPC did hold relevant documents but claiming that they were exempt from disclosure under s32. As for the review panel decision of 3 February 2022 refusing on the basis that supposedly my request "refers to any court records held by the Council" – when my request very clearly did no such thing – this refusal had no rational or even factual basis at all. I simply do not understand how this came to be the Council's position on your advice.

Having admitted that the Council's "final position" that it did not hold relevant documents was not correct, you then went full circle and relied on s32 again - but then failed to process my second internal review request within the required 20 working days. Only because I have allowed more than six weeks beyond that 20-day time limit because of Hoey and the elections and because of what you said on 25 November 2022 about reverting to

me do I find myself out of time to apply to the ICO at the moment. I have to wait until 20 working days after my request was renewed on 18 July. By my calculation the new time for compliance expires on 18 August 2023. I understand that the Fol Panel is to be convened shortly. I hope to receive SPC's decision by that date, please. And I hope it will be to disclose so that there is not then a third internal review request relating to exactly the same matter.

I have dealt with the s32 arguments more than once already. Please see the email of 12 October 2022 copied below.

Thank you
Paul Campbell

From: John Fullbrook <john.fullbrook@spc.gov.uk>
Sent: Friday, July 21, 2023 3:40 PM
To: Paul Campbell <Paul.Campbell@spc.gov.uk>
Cc: Hazel Roxby <hazel.roxby@spc.gov.uk>
Subject: RE: Review Request to Fol Panel re Requests of May and November 2021.

Dear Paul
Your FOI request is acknowledged
Regards
John

From: Paul Campbell <Paul.Campbell@spc.gov.uk>
Sent: Tuesday, July 18, 2023 11:16 AM
To: John Fullbrook <john.fullbrook@spc.gov.uk>; Joanna Norcross <joanna.norcross@spc.gov.uk>;
Deborah Hanson <deborah.hanson@spc.gov.uk>; Charlotte Lloyd <charlotte.lloyd@spc.gov.uk>;
Andrew Sharp <andrew.sharp@spc.gov.uk>; Vicci Johnson <vicci.johnson@spc.gov.uk>
Cc: Chris Young <Chris.Young@spc.gov.uk>; Deborah Hanson <deborah.hanson@spc.gov.uk>; Hazel
Roxby <hazel.roxby@spc.gov.uk>; Ian Alexander <ian.alexander@spc.gov.uk>; Aron Foxwell
<aron.foxwell@spc.gov.uk>; Liz Trundle <liz.trundle@spc.gov.uk>; Mariella Alexander
<mariella.alexander@spc.gov.uk>; Paul Campbell <Paul.Campbell@spc.gov.uk>; Richard Bell
<richard.bell@spc.gov.uk>; Robin Ballance <robin.ballance@spc.gov.uk>; Sarah Linfield
<sarah.linfield@spc.gov.uk>; Simon Alexander <simon.alexander@spc.gov.uk>
Subject: Review Request to Fol Panel re Requests of May and November 2021.

Dear John and Members of the Fol Panel (cc All Councillors)

It was right back in May 2021 that despite me being a member of the F and GP Committee, John refused to provide any details of a legal claim against the Council – not its nature nor who was making it. I had stumbled on the existence of this claim by querying why SPC was sending a payment to its lawyers. It turned out that this was the VAT on the invoice for the advice, with the legal bill itself being paid by our insurers.

It was finally disclosed on 25 November 2022, and only after intervention by the ICO, and only after trying to obfuscate by producing documents concerning something entirely

different concerning Mr F s, that John finally revealed that the claim related to something intimated by a member of the public – M. concerning then Cllr 1. Information which up to that point had been refused and disguised. Although there has been litigation between M and Mr this was in their respective personal capacities and so it is hard to imagine what sort of claim Mr may be intending against SPC however on any analysis I believe all councillors, and particularly those on the F and GP Committee, are entitled to the relevant information.

Once again, the common law right to know which was flagged up by Hoey and which I gave details of the other day comes into play. In particular: -

Hoey specifically drew attention to Legal Topic Note 1 in this connection and flagged up *"If a councillor is a member of a committee, he has the right to inspect documents or to obtain information relating to the business of that committee"*.

Hoey also said *"... Those people within an organisation, such as in this case councillors, should not need to use a freedom of information request to obtain the information they feel they require and are lawfully entitled to see ... the approach to councillor access to information needs to be re-thought in such a manner that councillors will have access to everything they are entitled to see and need to know in a timely and appropriate manner rather than having to make FOI requests"*

I should never have been required to make this an FOI request, let alone having had to do it twice, but having made me do so the cynical dragging it out for over two years is simply disgraceful and illustrates clearly in my view the way in which John generates unnecessary work for himself and others, and then complains that he is overworked by FOIs and so SPC has had such a poor record of delivery of services.

Please see in particular the Review Request of 2 November 2022 below which sets out the appalling history of delay and obstruction. I have also attached a Chronology up to 7 February 2022 (which went to the ICO).

In the face of no progress, and because I still want to see the documents as a member of the F and GP Committee, I am currently left with no realistic alternative but to make a third application to the ICO over this one matter. It would be hard to imagine a more obvious waste of everyone's time brought about by the sort of obstruction Hoey has deprecated. Perhaps you will kindly convene and ensure that the information is disclosed without further delay in the meantime. I suggest that every member of this council should be given the details about a pending legal claim intimated against it.

The same applies concerning the person who reportedly fell where the water trench for the Rublees Allotments had subsided. Has there been any personal injury claim intimated, and if so what is the nature of it, please?

Kind regards

Paul Campbell

From: Paul Campbell

Sent: Friday, November 25, 2022 12:35 PM

To: John Fullbrook <john.fullbrook>

Cc: Joanna Norcross <joanna.norcross>; Chris Young <Chris.Young>; Tim

Lloyd <tim.lloyd>

Subject: RE: Review Request to FoI Panel. Confidential information contained within this response.

Mr Fullbrook

This information you provided which relates to something very recent yet again clearly does not satisfy my request made in May 2021 which remains outstanding.

It is not for Mr _____ solicitors to let you know if litigation privilege applies. It is for you to advise SPC. I have already provided you, back in November 2021, with what I believe to be the relevant ICO Guidance Notes.

Clr Campbell

From: John Fullbrook <john.fullbrook>

Sent: Friday, November 25, 2022 11:15 AM

To: Paul Campbell <Paul.Campbell>

Subject: Review Request to FoI Panel. Confidential information contained within this response.

Dear Paul

I understand you have asked for a review – noted below.

On the FOI Panel's behalf I have asked the SPC Solicitors if communications ought not to be sent to you under the 'Litigation Privilege' ruling.

As soon as they provide the answer, we will be able to comply.

For your further information please note below, the wording of the notification the Council was sent and which I read out at Full Council under confidential session.

Sincerely

John

Please note therefore that these paragraphs are confidential information.

"We have received further correspondence from _____ Council _____ was refused leave to appeal. It is possible that he may seek an oral hearing at which he can ask the Court of Appeal to consider again whether he should have permission to appeal against the judgment which found against him in the defamation of proceedings he had brought against _____ He has advised that

In the meantime, I have been given further details of the way in which he wishes to advance a claim against the ICO. This correspondence lies with our legal advisors who are preparing a response"

From: Joanna Norcross <joanna.norcros@v.v.uk>
Sent: 21 November 2022 17:25
To: John Fullbrook <john.fullbrook@v.v.uk>
Subject: Fw: Review Request to FoI Panel. Grounds.

Hi John,

This is the FOI I was referring to earlier. Paul has requested a review of the decision, so we need to convene a review Panel. Apologies for taking so long to send this on to you, but as result of my failure to send it on, and Paul not sending it to you also, we need to convene the panel quite quickly.

Kind regards
Joanna

From: Paul Campbell <Paul.Campbell@v.v.uk>
Sent: 02 November 2022 16:14
To: Tim Lloyd <tim.lloyd@v.v.uk>; Joanna Norcross <joanna.norcros@v.v.uk>; Chris Young <Chris.Young@v.v.uk>; Simon Alexander <simon.alexander@v.v.uk>; Steve Northam <steve.northam@v.v.uk>
Subject: RE: Review Request to FoI Panel. Grounds.

Just to be clear....the ICO expects a review to be carried out within 20 working days. My email to the Clerk on 12 October 2022 was a review request and so by my calculations the process should be completed by close of business on 9 November 2022.

From: Paul Campbell
Sent: 02 November 2022 03:29 PM
To: Tim Lloyd <tim.lloyd@v.v.uk>; Joanna Norcross <joanna.norcros@v.v.uk>; Chris Young <Chris.Young@v.v.uk>; Simon Alexander <simon.alexander@v.v.uk>; Steve Northam <steve.northam@v.v.uk>
Subject: Review Request to FoI Panel. Grounds.

To the FoI Review Panel (Cllrs Lloyd, Young, Norcross, S. Alexander and Northam). As every email I send to Cllr Northam is auto-rejected I ask Cllr Norcross to forward a copy to him

Review Request Overview

On 31 August 2022 the ICO ruled in my favour. The decision notice is attached.

Despite this, and two further decision notices in my favour rejecting arguments that requests from me were vexatious, the Clerk is still refusing to provide the information I requested in May 2021.

We have gone full circle with the Clerk relying on s32, which SPC resiled from when I asked for a review last November.

In the circumstances I have lodged a third application with the ICO concerning exactly the same documents which the Clerk has been cynically withholding, with the express encouragement of the Personnel Committee (which includes three of the four members of the Review Panel) for eighteen months and continues to do so. This notwithstanding the Hoey recommendation that *"the approach to councillor access to information needs to be re-thought in such a manner that councillors will have access to everything they are entitled to see and need to know in a timely and appropriate manner rather than having to make FOI requests"*.

This is a formal review request on the basis of the same arguments I put last November and as set out below.

Overview of Grounds

I am seeking a further review as some eighteen months after I first requested the information, and notwithstanding the attached 30 August 2022 Decision Notice, and the Hoey recommendation, SPC continues to refuse to disclose the information I requested.

By that Decision Notice dated 30 August 2022, SPC was required to search again for the documents it had claimed not to have, but clearly did have, and either to produce them or provide an adequate refusal notice.

On 4 October 2022 the Clerk at last acknowledged that it holds the documents but claimed to rely on s32 to refuse them. A position he first took in November 2021 but then the Panel resiled from when I sought a review at that time and gave reasons why s32 appeared inapplicable.

So a year later we are no further forward and the Clerk is relying on a ground SPC previously resiled from and without addressing any of the reasons I previously gave as to why s32 is inapplicable.

On 12 October 2022 I wrote to the Clerk on pointing out that the arguments re s32 needed to be addressed. I have been ignored.

I ask the Panel to look at the attached s32 refusal and my arguments annotated therein as to why I believe s32 does not apply and to reconsider SPC's position.

The Detail

This is all part of a cynical process by the Clerk, publicly encouraged by members of the Personnel Committee who also sit on this Review Panel, at the Committee's November 2021 meeting, to prevent me from seeing information to which I am entitled to as a councillor.

This is notwithstanding the result of the independent governance review paid for by the District Council which has recently stated *"Steyning need to consider their whole freedom of information approach. Whilst the policy they currently have is sound in theory, the way it is implemented and the approach to councillor access to information needs to be re-thought in such a manner that councillors will have access to everything they are entitled to see and need to know in a timely and appropriate manner rather than having to make FOI requests"*.

It is also notwithstanding two recent decision notices (IC-155299-W9B5 and IC-155765-X1F0 both dated 19 October 2022) where the Commissioner has ruled that the Clerk had improperly refused requests from me – all as part of his same strategy publicly encouraged by the Personnel Committee of preventing me having information to which I am entitled and which has now been deprecated by the independent governance review.

On 30 August 2022 the ICO issued the attached decision notice requiring SPC to search again for the information it claimed not to have, though clearly did hold, and which fell within the terms of my request of 2 November 2021 (and of 13 May 2021) and either to provide the documents or provide an adequate refusal notice. The Commissioner gave it 35 days to do so.

"The Commissioner requires the Council to issue the complainant with a fresh response to their request following searches aimed at identifying all the information held within the scope of the request. If the Council locates information within the scope of the request, that information should either be disclosed to the complainant or an adequate refusal notice should be provided."

The Clerk waited the full 35 days before providing me with a number of irrelevant documents which he knew I already held because I was party to them. These irrelevant documents concerned a potential claim against the Council from Mr Barnes which the Clerk knows very well I have always known about and had NOT been the subject of my request.

The Clerk's own words in May 2021 made clear he knew exactly what documents I wanted and which he was refusing to provide at that time and is STILL refusing to provide: -

"....A claim may be being made against our Council from a Steyning resident, and the insurers solicitors are acting on our behalf in this matter.

When there is some signs of resolution I will inform the F&GP committee..... ..

The invoice is to cover these fees.

Joanna and Chris as Chair and Vice Chair have been involved in the process from the start and with me are happy that this invoice is paid ..."

We have now been taken full circle re s32 over a one-year period (with the whole delay being eighteen months) because the documents the Clerk knows I have wanted since May 2021 have again been refused, again claiming reliance on s32.

As the chronology shows, after a delay of five months, the Clerk first refused my request on 8 November 2021 purporting to rely on s32.

On 9 November 2021 I submitted a review request setting out why none of the s 32 grounds for refusing seemed to apply. The SPC Review Panel then resiled from s32 and changed the ground of refusal to the one which the Commissioner rejected in the decision notice.

Now, in response to the 30 August 2022 Decision Notice, the Clerk has once again refused to provide the documents, relying once again on s32 but without addressing any of the arguments I advanced on 8 November 2021 as to why s32 is not applicable.

Rather than revert to the Panel or the ICO immediately, I thought it appropriate to inform the Clerk that he had addressed none of the arguments about s32 I had put to him on 8 November 2021 and to give him 14 calendar days to do so before I reapplied to the ICO. I have been completely ignored. In the circumstances I the Panel to refer to the attached document comprising the Clerk's refusal of 4 October 2022 and my response to that which includes annotated comment on his response.

The key extract is copied below showing the Clerks purported reliance on s32 and my argument in response.

A third threat of legal action against SPC was made in April 2020. This threat of a possible claim against the Steyning Parish Council stems from court proceedings which I believe are ongoing and I further understand you are very much apart of and I therefore submit that on the advice of the insurers solicitors that I should continue to not send said correspondence to you at this stage as it might have a bearing on that case. With this in mind, and at the conclusion of the case, I would be happy to send out redacted correspondence as part of your initial Search Access Request. This third threat of court action I alluded to within the previous and initial response to this FOI request but refused disclosure under Section 32.

This is the only element of your response which is relevant and while at last, after 17 months of prevarication, confirming that the subject matter of my Fol request and my SAR does indeed relate to the civil case concerning [redacted] his personal capacity and [redacted] a member of the public we are no further forward because you have simply restated your reliance on s32 without giving any reasons and without addressing any of the points I made in November 2021 concerning s32.

Before setting them out again for your ease of reference I do need to say categorically for the record that I am not "very much apart (sic) of" this case between I [redacted] [redacted] While I gave [redacted] some initial advice and assistance in drafting and I was his McKenzie friend at some of the interlocutory hearings, I have had ever-decreasing involvement and have had no involvement whatsoever since June 2021.

Here are the points previously made on 9 November 2021 re s32 which you have not addressed before relying on it once again. I am asking that within the next 14 days you specifically address these arguments to include stating which sub paragraph(s) you rely on:

-

"The only ongoing court case of which I am aware is one brought by [redacted] in his personal capacity against [redacted]. 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 [redacted] sent SPC any of the [redacted] filed in the [redacted] case then they do not satisfy the "only" requirement. They are in SPC's possession because [redacted] as 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 surmise that the case is [redacted] 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."

Thank you

ClIr Campbell

From: Paul Campbell <Paul.Ca
Sent: Wednesday, October 12, 2022 12:22 PM
To: John Fullbrook <john.fu
Cc: Joanna Norcross <joanna
<uk>; Chris Young <Chris.Young
Subject: Freedom of Information case/SAR IC - 151369 - W6D8 response from SPC 4 Oct 2022 and Cllr Campbell response 11 Oct 2022, 14 day requested response time.

Mr Fullbrook

My responses to your email of 4 October 2022 are in blue within that message below. I think it reasonable for me to give 14 calendar days for you to reconsider your position once again and in default of a satisfactory response by then I will proceed with the application to the ICO. You already know the arguments re s32 as I put them to you as part of the review request of 9 November 2021 but because you have shifted your grounds of refusal so many times I think it is important that we are both clear before I take it further as to exactly what the current basis of refusal is. So far you have not addressed the s32 arguments at all.

In the decision notice of 30 August 2022 the ICO gave you 35 calendar days to revisit your original responses. That expired on 4 October 2022 and I note that you used every day available to you as more of the cynical drawing out of this process which has gone on since I made my original request on 13 May 2021 which had to be renewed on 2 November 2021 on the advice of the ICO as I had indulged you for too long out of misplaced sympathy for your situation.

This is all a perfect example of work unnecessarily generated by you which you then use to publicly claim that you are overworked and cannot deal with your ordinary work because of FoI requests by me. I suggest you look at the definitions of bullying and harassment within the proposed Civility and Respect Dignity at Work policy which only two days ago you were suggesting SPC should adopt. Much the same is already in our existing Dignity at Work policy.

From: John Fullbrook <john.fullbrook
Sent: 04 October 2022 05:30 PM
To: Paul Campbell <Paul.Campbe
Subject: Freedom of Information case IC - 151369 - W6D8 response from SPC

Dear Cllr Campbell

On the 30th August 2022 the ICO sent SPC a 'Decision Notice' stipulating that the Council should reappraise its response to you in consideration of your Freedom of information request dated 2nd November 2021.

That request was of course the same as the request of 13 May 2021 which I had to renew on 2 November 2021 as the ICO said that I had indulged you for too long

In the meantime I have been re-examining correspondence over the two and a half year period covered by the request

It was, of course, only two years when I made the request. The situation was also fresh in your mind as SPC had only just been invoiced for the legal advice which prompted the FoI

request and so answering the query as to why SPC was receiving legal advice should have been perfectly straightforward. All of the information was immediately to hand and as pointed out below, your search did not have to extend to anything not relevant to the May 2021 invoice

and following the ICO guidance have compiled this updated response. - Please therefore find below and attached.

Your initial FOI request as follows

Please disclose any claims since the May 2019 election which have been intimated against SPC [Steyning Parish Council] and which have resulted in a referral to SPC's insurers and chargeable legal advice. Please redact the potential claimant's personal details. Please provide the response by email. As you know, there is a 20 working day limit for compliance'.

The Response

I have made a thorough search of all office emails over the period May 2019 and November 2021. I can reconfirm that there has not been a single claim made against the Council in that time.

That was never the issue. It was always perfectly clear that I wanted to know why SPC was paying for legal advice concerning a potential claim which councillors on the relevant committee were not being told about and which you then refused to disclose

However the term 'intimated' within your request does include mere threats of action against the Council

that is precisely why I used the word "intimated". Your email of 13 May 2021 had said "a claim may be being made against the Council....",

and I have therefore needed to make greater efforts to find any references to possible action.

Not so. My enquiry was very specifically against the background of the payment just made for the VAT on the legal advice relating to the insurer claim number [redacted] (see my email of 12 May 2021) and so it was clear that my request related to that alone. The information I have been seeking was absolutely to hand when I made the enquiry but you just did not wish to disclose it. Hence you stating on 13 May 2021 "*....A claim may be being made against our Council from a Steyning resident, and the insurers solicitors are acting on our behalf in this matter. When there is some signs of resolution I will inform the F&GP committee..... The invoice is to cover these fees.*

Joanna and Chris as Chair and Vice Chair have been involved in the process from the start and with me are happy that this invoice is paid ..."

You should have been in no doubt whatsoever that this is the claim I was seeking information about.

My apologies for not alerting you to these earlier, but I have found three of these 'threats'. I have concluded there are no more to be found.

Your apology is noted but not accepted. Since 12 May 2021 You have known exactly what I have been seeking but have gone to significant lengths to prevent me seeing it. And that is continuing with your reliance on s32.

One threat was made on the 6th June 2020, but this threat was withdrawn shortly afterwards and no further action was necessary - {Redacted Correspondence attached – Document 1}.

You know that this potential claim by [redacted] of 25 May 2020 (not 6 June 2020) was one I already knew about and you must know it was not intended to be caught by my request which related to the May 2021 payment of the VAT on legal advice for the insurer's reference [redacted]. If for some unaccountable reason this was not clear to you then it was always open to you to seek clarification from me. Such clarification and consequent limitation of the extent of work needed to satisfy a request is specifically encouraged by ICO Guidance.

A Second threat of legal action was made by yourself on the [redacted] – {Redacted Document 2 as a reminder}.

Thank you for the reminder that on 8 July 2020 I said that if necessary I would bring contribution proceedings against SPC if [redacted] made good his threat of bringing proceedings against me. Just as with the first threat I think it should have been perfectly clear to you that I did not intend this to be encompassed by my FOI Request of 13 May 2021 which was framed by reference to my 12 May message which gave the insurer claim number and was renewed on 2 November 2021.

Document three is a redacted copy of the correspondence notification made to the insurance solicitors. While this is interesting, it is nothing to do with the request for the reasons given above. My preliminary enquiry of 12 May 2021 observed that the invoice related to the insurer's reference [redacted]. This document refers to insurer references [redacted] and [redacted]. It relates to Mr [redacted]'s potential claim and to my intimation of contribution proceedings. It thus only serves to obfuscate [redacted].

A third threat of legal action against SPC was made in April 2020. This threat of a possible claim against the Steyning Parish Council stems from court proceedings which I believe are ongoing and I further understand you are very much apart of and I therefore submit that on the advice of the insurers solicitors that I should continue to not send said correspondence to you at this stage as it might have a bearing on that case. With this in mind, and at the conclusion of the case, I would be happy to send out redacted correspondence as part of your initial Search Access Request. This third threat of court action I alluded to within the previous and initial response to this FOI request but refused disclosure under Section 32.

This is the only element of your response which is relevant and while at last, after 17 months of prevarication, confirming that the subject matter of my FOI request and my SAR does indeed relate to the civil case concerning Mr [redacted] his personal capacity and Mr [redacted]. If as a member of the public we are no further forward because you have simply restated your reliance on s32 without giving any reasons and without addressing any of the points I made in November 2021 concerning s32.

Before setting them out again for your ease of reference I do need to say categorically for the record that I am not "very much apart (sic) of" this case between Mr [redacted] and Mr [redacted]. While I gave Mr [redacted] some initial advice and assistance in drafting and I was his McKenzie friend at some of the interlocutory hearings, I have had ever-decreasing involvement and have had no involvement whatsoever since June 2021.

Here are the points previously made on 9 November 2021 re s32 which you have not addressed before relying on it once again. I am asking that within the next 14 days you specifically address these arguments to include stating which sub paragraph(s) you rely on:

"The only ongoing court case of which I am aware is one brought by Cllr [redacted] in his personal capacity against [redacted]. 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 [redacted] I has sent SPC any of the pleadings etc filed in the [redacted] well case then they do not satisfy the "only" requirement. They are in SPC's possession because [redacted] 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 surmise that the case is [redacted] 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."

I shall look forward to hearing from you.

Cllr Paul Campbell

It was chargeable advice and so fell within the terms of the request. The fact that SPC later recovered the VAT from Customs and Excise is irrelevant and so I think it wise that you have not pursued such an argument

The first and second potential claims were never relevant. This all just serves to muddy the waters over the actual potential claim which you have known since May 2021 was what I was seeking.

Your sincerely
John

From: John Fullbrook <john.fullbr...@...>
Sent: Tuesday, October 4, 2022 5:30 PM
To: Paul Campbell <Paul.Campbe...@...>
Subject: Freedom of Information case IC... response from SPC

On the 30th August 2022 the ICO sent SPC a 'Decision Notice' stipulating that the Council should reappraise its response to you in consideration of your Freedom of information request dated 2nd November 2021.

Please disclose any claims since the May 2019 election which have been intimated against SPC [Steyning Parish Council] and which have resulted in a referral to SPC's insurers and chargeable legal advice. Please redact the potential claimant's personal details. Please provide the response by email. As you know, there is a 20 working day limit for compliance'.

The Response

I have made a thorough search of all office emails over the period May 2019 and November 2021. I can reconfirm that there has not been a single claim made against the Council in that time.

However the term 'intimated' within your request does include mere threats of action against the Council, and I have therefore needed to make greater efforts to find any references to possible action. My apologies for not alerting you to these earlier, but I have found three of these 'threats'. I have concluded there are no more to be found.

One threat was made on the 6th June 2020, but this threat was withdrawn shortly afterwards and no further action was necessary - {Redacted Correspondence attached – Document 1}.

A Second threat of legal action was made by yourself on the – {Redacted Document 2 as a reminder}. Document three is a redacted copy of the correspondence notification made to the insurance solicitors.

A third threat of legal action against SPC was made in April 2020. This threat of a possible claim against the Steyning Parish Council stems from court proceedings which I believe are ongoing and I further understand you are very much apart of and I therefore submit that on the advice of the insurers solicitors that I should continue to not send said correspondence to you at this stage as it might have a bearing on that case. With this in mind, and at the conclusion of the case, I would be happy to send out redacted correspondence as part of your initial Search Access Request. This third threat of court action I alluded to within the previous and initial response to this FOI request but refused disclosure under Section 32.

One could argue that none of these disclosures fall within the scope of your request as there has been no chargeable cost to SPC. All costs were covered by SPC insurance, other than the VAT, and these monies were claimed back by SPC. Hence the advice was free. However I don't feel it is necessary to be so pedantic as to argue this matter.

It is not "pedantic". This point is utterly irrelevant to the request and appears simply to be an attempt to obfuscate that when you told the ICO that the Council did not hold the documents this was knowingly untrue. I had not requested "chargeable" cost claims. I asked for details of claims intimated. Which you initially refused on s32 grounds thus acknowledging that documents within my request were held by SPC before, oddly and completely inconsistently, then claiming that no such documents existed and now after the ICO decision notice completely inconsistently resiling from the claim that the documents did not exist to once more admitting that they do but going back to s32.

The Council apologises for not obtaining all references to past threats of action as they were not found in the initial search.

However one of these two threats was made by you therefore one imagines you were aware of it. The other had already been sent to you in your capacity as Vice Chairman of the Council.

If you are not happy with this response then please respond to the Case officer in charge of this matter.

Your sincerely
John

John Fullbrook
Clerk to the Council
01903 812042

From: Paul Campbell <Paul.Campbell@...>
Sent: Wednesday, August 31, 2022 2:13 PM
To: Chris Young <Chris.Young@...>; Deborah F
Sullivan <gary.sullivan@...>; Alexander <ian.alexander@...>; Gary
<joanna.r.alexander@...>; iz Trund
<Paul.Campbell@...>; Richan
<rodne@...>; gpr@...; na
<sim@...>; gov.uk>; S
<tim@...>; Rudkin <
Subject: Signed Decision Notice - ICO Case Reference: 1

Since 13 May 2021 the Clerk, the Chairman and the Vice-Chairman and the then SPC Review Panel have all deliberately obstructed me receiving information I was always clearly entitled to as a member of the F and GP Committee. Namely, what was the third-party claim intimated against SPC which necessitated it paying for legal advice?

That this was inappropriate has at last been confirmed by the ICO. It should never have needed the intervention of the ICO as it should have been, and I believe was, absolutely clear to all concerned that I was entitled to the information. I believe this to have been cynical obstruction by those concerned in order both to obstruct for the sake of it and to run the clock down and render the information stale. Months of ill-feeling and huge amounts of work generated completely unnecessarily by the self-same Clerk who repeatedly claims that he is unable to deal with his normal work-load because of a supposedly large number of vexatious Fol requests. There have never been a large number and the few there have been were all generated by the Clerk's obstruction. As this decision confirms for this request.