



**FIRST-TIER TRIBUNAL  
GENERAL REGULATORY CHAMBER  
Information Rights**

**Tribunal Reference:** EA/2013/0094  
**Appellant:** Natashia Bourne  
**Respondent:** The Information Commissioner  
**Judge:** NJ Warren

**DECISION NOTICE**

1. On 25 April 2012 Ms Bourne made a request to Prestatyn Town Council under the Freedom of Information Act (FOIA). She asked for:-
  - (a) The “contract schedule” in respect of tenders considered at a meeting of the Town Development Committee.
  - (b) A copy of the winning tender.
  - (c) The names of the persons who opened the tenders.
  - (d) The names of councillors present and absent at two meetings of the local authority.
2. The council provided some of the information. After the intervention of the Information Commissioner (ICO) they furnished Ms Bourne with the rest of it. The ICO issued a decision notice which recorded these events. He found that there had been a breach of Section 10 FOIA because the council had failed to provide the requested information within the statutory time but did not require the council to take any steps.
3. Ms Bourne has appealed to the Tribunal against the ICO decision notice and the ICO has applied for the case to be struck out because it has no reasonable prospect of success.
4. The original grounds of appeal do not seem to point to any error in the ICO decision notice. First, complaint is made about the delay in responding to the original request; but as I have indicated the ICO agreed that the council was in breach of the time limit. It is then suggested that there had been a deliberate attempt to prevent Ms Bourne knowing why her tender was unsuccessful. That is not something into which this Tribunal would enquire under FOIA.

**Appellant:           Natashia Bourne****Date of decision:    24 July 2013**

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5.    The Tribunal has asked the appellant to give further information about what she expects from the Tribunal hearing. In a long reply complaint is made that the council may hold further information concerning tenders and what councillors knew. It is argued that the successful bidders were not qualified to do the job. A request is also made for a report referred to in the minutes of the committee meeting and for copies of all the tenders which were submitted. As the ICO points out these extra pieces of information all go beyond the original request. The Tribunal has no power to interfere with the decision notice of the ICO on the grounds that the ICO failed to consider information which was not part of the original request.
6.    For this reason, it appears to me inevitable that the decision of the Tribunal would be to uphold the ICO decision. There is no material before them on which they could do otherwise.
7.    In these circumstances, it seems to me to be right to strike out the appeal now on the ground that it has no reasonable prospect of success. To do otherwise would be unfair to the ICO; nor would it do any favours to Ms Bourne to prolong the anxieties that litigation always brings.

**(Signed on the original)****NJ Warren****Chamber President****Dated 24 July 2013**