

POTTO PARISH COUNCIL

District
Hambleton

County
North Yorkshire

12th July 2023

Potto council's unaltered and complete letter is shown in full below, in BLACK.
Appellant's corrections/responses are inserted below each section in BLUE.

Ref: Appeal to the ICO Ref EA/2022/266

Potto council appears here to be making an 'appeal to the ICO' – however, I understand that an appeal about a First-tier Tribunal Decision can be heard only by the Upper Tribunal. The ICO cannot handle appeals of any type (this is clearly stated at the end of each ICO Decision Notice).

I suggest that this significant procedural error has been permitted to occur because Cllr Andrew Wilde (undeniably the writer of this letter, noting the mangled syntax, typos, endless reiteration of falsehoods and the multitude of factual errors) has again refused to seek advice from Yorkshire Local Councils Associations (YLCA), the council's primary legal advisors.

I note that even the Tribunal reference number above is incorrectly/incompletely recorded.

Dear Sir/Madam,

Further to your email dated 22nd July we would like to appeal the decision of the Tribunal ref EA/2022/0266.

This council letter is dated 12th July, but it claims to be responding to an email dated 22nd July. Such foresight is most perplexing, and so is the council's misguided and inexpert belief that an application to appeal is appropriate, when an experienced legal practitioner such as Ms Gangani, the ICO Solicitor, acknowledges the Tribunal's Decision and does not seek to appeal it; her email to me is below:

Sapna Gangani <Sapna.Gangani@ico.org.uk>
to me ▾

Fri, 30 Jun, 16:27

Dear M [REDACTED]

Thank you for your email, to which I respond to as I was acting for the Commissioner in this appeal.

We acknowledge the Tribunal's decision and do not seek to appeal it.

It is clear from the tribunal's comments in the decision notice IC-119123-M4P7, that the decision is based on false information presented to the tribunal and needs to be reconsidered in light of the facts rather than the misinformation presented.

The council is incorrect to assert that the Tribunal commented in decision notice IC-119123-M4P7 (it didn't - this is an ICO document). The fact is that the Tribunal's decision for case EA/2022/0266 is based upon information provided by Potto council to the ICO – indeed, the bulk of the 285 pages of information in the 'bundle' was provided by Potto council.

As a small parish council comprising of volunteers from the community, we have the right to undertake our work without fear of Harassment, Bullying and Abuse. This Zero tolerance approach is adopted by responsible organisations worldwide and should be supported by those organisations whose role it is to regulate and legislate others, they have a clear duty to protect those organisations and individuals that they regulate. [Iteration one]

Irrelevant – there is no evidence of "Harassment, Bullying and Abuse" directed to Potto council. No external body, including PKF Littlejohn LLP, has even suggested this could be true.

We would like to pass comment on information provided by the Appellant as noted in the decision notice, as we have not been provided with a copy of the appeal document.

Potto council did not seek to become a 'Party' to this appeal and therefore it was excluded from the minutiae of the Tribunal appeal ref EA/2022/0266.

Accordingly, the council has no just cause to criticise the Tribunal for not providing it with copies of the appeal documents.

The Appeal

a. Potto Parish Council would comment that the Appellants behaviour has not changed fundamentally since 2019.

Potto council's own evidence in its correspondence records verifies the fundamental change in the Appellant's behaviour.

It has in fact expanded to include the use of multiple pseudonyms contacting the council as well as internet-based harassment through his collaboration with the website North Yorkshire Enquirer [North Yorks Enquirer \(nyenquirer.uk\)](http://NorthYorksEnquirer.nyenquirer.uk) where the harassment and vexatiousness has increased exponentially and to a potentially global audience.

Potto council has not provided a scrap of evidence to supports its assertion of "multiple pseudonyms".

Potto council claims "collaboration" with the North Yorks Enquirer, whilst not providing a scrap of evidence in this regard.

Potto Parish Council have been working with the charity "Protection Against Stalking"

www.protectionaginstalking.org

And Theseus Risk www.theseusrisk.com

They have identified the appellant as a Resentful Stalker and noted that his actions are clearly contrary to section 2a Protection of Harassment Act 1997 (causing alarm and distress) (as amended by the Protection of Freedoms Act 2012).

Additionally, it has been noted that the Appellants behaviour in this situation has many similarities to the Soft Stalking case Regina v Belfield which covers Section 5A of the Protection from Harassment Act

Markedly, Potto council is unable or unwilling to provide any supportive evidence for these quite outrageous, antagonistic, irrelevant (to this case) and potentially libellous assertions.

It is clear that rather than diminishing, the Appellants behaviour has increased in both its level, impact and vexatiousness.

I acknowledge that this is the genuine opinion of Potto council (primarily that of Andrew Wilde, the unelected chair), but the facts, as considered by the Tribunal, determine otherwise.

The parish council consider both the appellant and his requests to be vexatious, a copy of the latest correspondence which has been attached demonstrates this, as can be seen through its content language and threats

Potto council's truly awful statement "*The parish council consider both the appellant and his requests to be vexatious*" is alarming, offensive, unambiguous and potentially libellous.

The '*attached correspondence*' is accurate, cogent and polite – I suggest no reasonable or dispassionate person could conclude otherwise.

I suggest that it is, in fact, Potto council that continues to use excessive and disproportionate language in its correspondence and to make unnecessarily personal, bullying and accusatory comments, such as "*the appellant and his requests are vexatious*". This won't do

The factual inaccuracies referred to such as the Standards Board's being abolished is somewhat mute, as the process within local government still exists if under a different name, The current name is the Standards Hearing Panel, yet it is still referred to as the standards board in many circles.

The facts are that the 'Standards Board for England' was a non-departmental public body sponsored by the Department for Communities and Local Government.

It was abolished as part of the changes regarding the Localism Act 2011, as S28(6) of this Act requires a relevant authority to have arrangements for investigating and making decisions on allegations of breaches of the Code of Member Conduct.

This distinction is NOT "*somewhat mute*", as asserted by Potto council.

The harassment against the clerk and the internal auditor are both very real and continue to cause

much distress and personal anguish.

[This is unsubstantiated and uncorroborated opinion.](#)

For example, more than 25 complaints have been made against the Clerk by the appellant.

[I have carefully checked Potto council's meeting minutes and find there is no evidence to support this assertion.](#)

Further pictures of the Clerk together with appalling stories are posted on the website [North Yorks Enquirer | Potto \(nyenquirer.uk\)](#) these as in the public domain and have caused great distress.

[I understand the pictures of the clerk were published by the clerk on the clerk's unrestricted social media - for the whole world to see. The so called 'appalling stories' are factually correct and are appalling only in the sense that a council clerk should never act in the manner so described.](#)

A simple Google search by any person worldwide can now see the completely false accusations being levelled at the members of the parish council, this brings real meaning to the phrase Weaponizing the Internet.

[If there are any "completely false accusations" published on the Enquirer, I understand that it is a simple matter for anyone to contact the Editorial Team, identify a falsehood, provide evidence as to why it is false and then I believe the error will be corrected - with an apology.](#)

[Markedly, I suspect that Potto council has yet to identify a single falsehood or error, for the simple and quite obvious reason that none seem to exist.](#)

The internal auditor for the parish Council is being harassed professionally as well as personally by the Appellant via email and through the web site North Yorkshire Enquirer, again with names, pictures and false claims being made on the site. This greatly affects our auditor both personally and professionally.

[The Appellant is not an employee of the Enquirer and has absolutely no control over what the Enquirer publishes, how or when – Potto council's claim is quite preposterous.](#)

[I am aware that Mr Roger Brisley, the internal auditor, is a member of the Institute Chartered Accountants England Wales \(ICAEW\) and that the Professional Standards Team at ICAEW have been investigating serious and multiple allegations of his misconduct and breaches of his Code of Ethics for about three years.](#)

You will find that the external auditor dismissed all of the Appellants objection for 2021/22.

[I understand that PKF Littlejohn LLP, Potto council's external auditor, didn't 'dismiss' any objections for 2021/22. Rather, I understand the objections were set aside to give Potto council a fair period of opportunity to address the 2022 Public Interest Report in a professional manner. It is therefore not determined if the objections were valid or not, but if the objections raised for 2022-23 are considered valid, I understand that reference can be made to the 2021-22 objections as evidence of persistent and ongoing \(since 2011\) maladministration.](#)

This is a clear example of the misinformation portrayed as facts by the Appellant, the points noted by the PIR were all minor points rather than maladministration

[The council's assertion that the PIR points "were all minor" is in stark conflict with the auditor's words of 'significant findings' in the PIR:](#)

[Having considered those accepted objections, we decided to issue a Public Interest Report so that the matters may be considered by the Council and brought to the attention of the public. We decided to issue a Public Interest Report because of the significance of our findings taken together.](#)

... all of which have been subsequently addressed.

[The council then asserts that these 'minor points' "have all been subsequently addressed".](#)

[This assertion of "subsequently addressed" is in marked contrast to the council's other publicity, where the council stated \(13 September 2022\) that the "minor recommendations" \[in the PIR\] "had already been addressed over two years ago"; see below:](#)

"Regarding the statement that the objections were 'overwhelmingly upheld', it is clear from the above that taking into consideration the thousands of pages submitted by this individual, over 360 separate objections resulting in 14 minor recommendations which had already been addressed over two year ago is a long way from being 'overwhelming'.

It appears to me that Potto council has no records that determine if the PIR Recommendations were "*subsequently addressed*" [ie, in late 2022 or 2023] or "*addressed over two years ago* [ie, in 2020]". I understand that PKF Littlejohn LLP are aware of this discrepancy.

I suggest, according to the council's records in meeting minutes, etc, that the truth is that neither assertion is valid; I suspect that the PIR Recommendations are still waiting to be properly addressed.

Rather than being unusual for a parish council to receive a PIR more than 100 have been issued over the last three years by the SAAA, see [Public Interest Reports | Smaller Authorities' Audit Appointments \(saaa.co.uk\)](https://saaa.co.uk).

The council seems to have convinced itself that it is not "*unusual for a parish council to receive a PIR*" and it asserts that '*more than 100*' were issued by SAAA in the last three years.

Let's examine the facts.

The '*more than 100*' assertion refers to authorities that failed to publish, or published the AGAR late – this is not pertinent to the reasons at issue here.

The SAAA 'Report on Auditors' Work' dated March 2023 states on page 14:

Occasionally a public interest report is issued as a result of an investigation: there have been four such reports in the five years since the introduction of the new assurance regime. One of these recorded an authority's failure to comply with VAT regulations; in another case, the authority had not undertaken necessary due diligence in disposing of land; the other two PIRs drew public attention to multiple governance failings, including failure to ensure transparency and accountability and to follow proper processes in the conduct of business, including the making of financial decisions.

SAAA notes there are 10,000 UK audited smaller authorities and over five years (or 50,000 audits) only four PIRs were issued as a result of an audit investigation.

Potto council was one of these four. Two of these four authorities had single issue weaknesses (VAT regulations and a land sale) and the other two had multiple governance and financial failings. Of these two, one PIR had 8 Recommendations and the other, issued to Potto council, had 17 Recommendations.

On the basis of this evidence, I suggest that Potto council is, by some margin, the most dysfunctional parish council in the UK.

Furthermore, the NAO Guidance AGN-07 states:

Reporting in the public interest is one of the highest profile powers available to the auditor and is one which is taken particularly seriously by audited bodies and

It is, contrary to Potto council's assertion, very unusual for a parish council to receive a PIR. Lastly, again contrary to the council's assertion, the fact is that SAAA does not issue PIRs, or indeed any type of audit report. Audit reports are written and published by auditors.

Whilst Potto Parish Council recognise everyone's right to access of information there is a clear burden in addressing the volume and content of correspondence from the Appellant, who has resorted to the use of pseudonyms to disguise some of his activities.

However, there cannot be '*a clear burden*' in addressing the volume of correspondence that I, the Appellant, have made recently:

- i) only one FOIA request in 2023 (July) and one 18 months earlier in 2022 (February).
- ii) NIL complaints in 2023 and only one complaint in 2022 (April).
- iii) NIL correspondence in January 2023, NIL in February, NIL in March, NIL in April, one email in May, three emails in July and NIL in August.

The Tribunal stated:

The current Tribunal accepted that the Appellant had made no FOIA requests to the Parish Council for 18 months and that he had sent only six emails to them in 2020, ten in 2021 and eight in 2022. This was not disputed by the Commissioner or the Parish Council and was supported by the Parish Council's records of correspondence from the Appellant.

I suggest that the council's assertion "*there is a clear burden in addressing this volume*" of correspondence is quite ridiculous; the Tribunal also found it was "*not burdensome*".

In relation to the burden of the Request, the Tribunal found that, although multi-headed, the Request itself, taken in isolation, was not burdensome. The Parish Council had already responded to much of it.

Lastly, Potto council asserts use of "*pseudonyms to disguise some of [the Appellant's] activities*" but, markedly, the council then fails to provide any evidence to support its assertion.

The Parish Council has had to instruct the Clerk not to answer correspondence from the Appellant in an attempt to protect her from Bullying, Harassment and Abuse, as the parish council has a duty of care to protect its employees and a Zero Tolerance approach to bullying, harassment and abuse. Therefore, councillors have to shoulder the burden of the Appellants lengthy correspondence. [Iteration two]

It is not disputed that the administrative arrangements at Potto council are highly unusual – perhaps unique in the UK.

The chair carries out all the roles and duties of the clerk (his untrained and unqualified daughter) and this includes handling all the correspondence (whether from the Appellant or anywhere else). The council's assertion about the "*burden of the Appellants lengthy correspondence*" was dispelled by Judge Goodman in the Tribunal's Decision.

This is another example of the Appellants misinformation, Potto Parish Council have not released any corrupt or libellous publicity.

I suggest that this 12th July letter from Potto council is unfortunately yet another example of exactly this "*corrupt or libellous publicity*".

Rather the opposite is the case, the Appellant has provided a number of vexatious articles and statements to the press and the website North Yorkshire Enquirer as well as circulate his vexatious comments to members of the public.

Again, I suggest that the council's opinion and assertion "*the Appellant providing vexatious articles to the Press*" is quite inaccurate and, markedly, it is unsubstantiated with any evidence. I have no control or power over what is published by or in the Press.

10. The statement "Intentionally Burdening the Council" speaks volumes about the Appellant and his behaviour. As noted above this behaviour continues to this day and has been expanded to include external parties such as the internal auditor and members of councillor's families.

I note the Tribunal recorded these details about the Appellant:

However, we found that the burden of the Request was not inextricably linked to the previous course of dealing between the Appellant and the Parish Council because of the change in his behaviour and the long gap between requests for information.

However, the Tribunal found that the Appellant did have a serious purpose.

Behaviour that has a "*serious purpose*" cannot be misconstrued as an "*intentional burden*".

The collaboration with the North Yorkshire Enquirer then extends the harassment to the world wide web.

The Appellant is not a journalist and does not work for or collaborate with the Press.

It should also be noted that the Appellant's activities have not ceased, rather more subversive methods have been utilised to maintain the assault on the parish council.

The Appellant's activities have not ceased entirely and nor should they do so. Indeed, it is a fundamental tenet of the democratic process that the public has a right to hold public officials to account. An Appeal Court Ruling (AC-534 1993) stated "*it was the highest public importance that a democratically elected governmental body should be open to uninhibited public criticism*". Unfortunately, it would appear that Potto council wishes not to accept this basic tenet.

There is, markedly, no evidence, explanation, description or basis for the council's wild claim about the Appellant's "*subversive methods*".

I cannot find any evidence of an "*assault on the parish council*", but I do note that the Tribunal determined the Appellant's input "*was not part of an unduly onerous course of dealings*".

Nevertheless, this Tribunal concluded on balance that, because of the significant and substantial change in the Appellant's behaviour and correspondence since the previous Tribunal, the burden of the Request was not "*inextricably linked*" to that previous course of dealings. The Request was not in itself onerous, and as it was the first request for information under FOIA, and only the tenth email from the Appellant, in the 18 months since the previous Tribunal, it was not part of an unduly onerous course of dealings.

13. The Parish Council did not see all of the information presented to the tribunal as would be expected and was therefore unable to comment on the validity of the submissions.

I understand that the information presented to the Tribunal is shared between, and restricted to, the Parties only. Potto council was invited to become a Party but did not accept the invitation. Accordingly, it has only itself to blame for its current position.

The balance of probabilities therefore were clearly made based on misinformation rather than on a factual basis.

Potto council has not identified any examples or provided any evidence of "*misinformation*".

Discussions and Reasons

Potto Parish Council would note that it was not allowed to see all of the evidence and therefore, was not allowed to provide the tribunal with the balance of the evidence that it would require in order to make an informed decision.

The information presented to the Tribunal is restricted to the Parties. Potto council was invited to become a Party but it did not accept the invitation.

Accordingly, it has only itself to blame for its current position.

Potto Parish Council would note that although in isolation a single request from a normal member of the public is not burdensome the sheer volume from the Appellant and his pseudonyms does constitute a burden far in excess of that which a small parish council should be expected to address.

It would appear that the council considers the Appellant NOT to be a '**normal**' member of the public. The Tribunal effectively dismissed the council's assertion about the "*sheer volume*" [of correspondence] from the Appellant and, further, notes this evidence of 'volume' was not disputed, and was indeed supported, by the council's own records:

The current Tribunal accepted that the Appellant had made no FOIA requests to the Parish Council for 18 months and that he had sent only six emails to them in 2020, ten in 2021 and eight in 2022. This was not disputed by the Commissioner or the Parish Council and was supported by the Parish Council's records of correspondence from the Appellant.

I can only conclude that the council's capacity for self-deceit continues to prevail, even in the face of much robust evidence (indeed, it is the council's own evidence) to the contrary.

For example, the most recent FOI request has just been received from the appellant covering five pages of demands together with associated threats and vexatious comments.

I did send a 4 page (not 5 as asserted) detailed (so as to minimize the opportunities for the council to try to misconstrue the nature of the request) FOI request to Potto council on 03 July 2023. It does not contain any threats or vexatious comments.

Furthermore, the preceding FOI request was dated 10 February 2022, which makes a mockery of the council's implication that there are many requests - "*the most recent FOI request has just been received*". These two FOI requests were 18 months apart.

Potto Parish Council would completely refute the statements made regarding the change in behaviour, rather the behaviour as noted in this letter has increased and intensified utilising many different avenues.

The council's false and unsubstantiated opinion is quite worthless in the face of a complete lack of any supportive evidence. The Judge's Ruling to the contrary stated that there had been a "significant and substantial change in both the Appellant's behavior and correspondence":

Nevertheless, this Tribunal concluded on balance that, because of the significant and substantial change in the Appellant's behaviour and correspondence since the previous Tribunal, the burden of the Request was not "inextricably linked" to that previous course of dealings. The Request was not in itself onerous, and as it was the first request for information under FOIA, and only the tenth email from the Appellant, in the 18 months since the previous Tribunal, it was not part of an unduly onerous course of dealings.

Further, the numbers of correspondences are also another clear example of the appellants misinformation, in the 18 months prior to December 2022 Potto Parish Council received 18 emails from the Appellant, 4 FOI requests, A complaint against the Clerk and 2 objections to the AGAR some of these running into hundreds of pages.

Potto council again asserts the "numbers of correspondences" are a clear example of the Appellant's misinformation, but the council fails to recognise that these 'numbers' are supported by the councils records and hence were NOT disputed by the council:

The current Tribunal accepted that the Appellant had made no FOIA requests to the Parish Council for 18 months and that he had sent only six emails to them in 2020, ten in 2021 and eight in 2022. This was not disputed by the Commissioner or the Parish Council and was supported by the Parish Council's records of correspondence from the Appellant.

The council then asserts the "objections to the AGAR" ... run to "hundreds of pages". However, the fact is that the July 2023 objection extended to only 47 or so pages with only 5 appendices, thereby again reinforcing the 'substantial and significant change' in the behaviour and level of correspondence from the Appellant.

Additionally, there were multiple FOI requests from the various pseudonyms used by the appellant.

Potto council's assertions in this regard are reiterated *ad nauseam*, but markedly they are always unsubstantiated with any evidence, facts or examples. I have been contacted by some of the requesters the council refers to as pseudonyms, as these people are sufficiently alarmed by the council's conduct that they wish to assist the democratic process of transparency and accountability (Potto council breached Sched 11 of LAAA 2014 and disclosed my identity).

Furthermore, the council seems eager to describe these people as pseudonyms so as to maintain its ploy and self-deceit that there is only one single requester/objector/complainant. The fact is there isn't – there are dozens of aggrieved people and thanks to growing factual publicity, this list of aggrieved people continues to grow.

I have been contacted by several residents of Potto who suspect that I may be one of the people holding the council to account. All have each offered me their thanks, admiration and private support, but they are too afraid to speak out publicly or object to the council's accounts due to the very strong likelihood of them also becoming the focus of the council's ire.

They would, however, strongly support a parish poll or similar opportunity, where they could vote discretely to have Potto council abolished altogether (it serves no useful or meaningful purpose and over 90% of its income is spent on its overheads), or merged with an adjacent council.

Since that period more FOI requests have been submitted the latest of which is some five pages long containing a mixture of requests, Vexatious comments and Abuse, a copy of which is attached to this correspondence.

I did send a detailed (so as to minimise the opportunities for the council to misconstrue the details) FOI request to Potto council on 03 July 2023. It extends to 4 pages, not 5 as falsely asserted, and it does not contain any abuse or vexatious comments.

Furthermore, the preceding FOI request was dated 10 February 2022, which makes a mockery of the council's claim that *"more FOI requests have been submitted"*.

It is clear that the tribunal has been misinformed, the records of PPC show that since the end of 2019 the following correspondences have been received from the Appellant.

7 Complaints have been made against councillors.

28 Freedom of Information Requests

5 Freedom of Information Complaints

3 objections to our annual returns.

If 2019 is included this number increases too.

11 Complaints have been made against councillors.

72 Freedom of Information Requests

12 Freedom of Information Complaints

4 objections to our annual returns.

Plus, a similar amount from the various Pseudonyms being used.

This new and quite inaccurate list of details is in some contrast to the evidence previously submitted by the council to the ICO and which was not disputed by the ICO, Tribunal or the council. The council's capacity to create ever more confusing and conflicting details, with the specific intention to mislead, does it no credit whatsoever.

The ICO and Tribunal accepted the council's initial details as being undisputed and correct:

The current Tribunal accepted that the Appellant had made no FOIA requests to the Parish Council for 18 months and that he had sent only six emails to them in 2020, ten in 2021 and eight in 2022. This was not disputed by the Commissioner or the Parish Council and was supported by the Parish Council's records of correspondence from the Appellant.

A public meeting was held following the Issue of the PIR in 2022, which was attended by more than 100 residents,

The minutes for the PIR meeting record that 80+ residents attended, not *"more than 100"*:

1. Introduction.

The Chairman welcomed 80+ residents who were present

... who unanimously condemned the Appellant for his behavior and the costs that he was bringing on residents:

Attendees did not *"unanimously condemn the Appellant"* – indeed the reverse is true. People attended primarily because they were worried about the council's unacceptable performance, as recorded in the PIR, and wanted to find out how this might affect their finances (the council had earlier informed the local and national Press, which subsequently published claims that audit costs of £37k could mean households face a £500 bill).

The example headline below is from the Daily Express dated 09 September 2022:

**Furious villagers faces £500 bill
after anonymous complaints
forced £37k audit**

A member of the public cannot incur, create or be responsible for *"costs that he was bringing on residents"*. The performance of the council is the responsibility of the council, and of the council alone.

If the council acted with probity, complied with laws and regulations and acted in the best interests of Potto's residents, there could be no audit investigations (or additional audit fees), because its accounts would likely be complete and accurate and there would be no weaknesses to investigate. It is wholly and solely the council that acts to create and bring about its own problems, albeit that it remains very clear that it still lacks the collective capacity to recognise this fact.

It was also noted that while the PIR noted 14 minor areas of improvement no major failings were found in the activities of the parish council.

This statement contains two blatant falsehoods, which are regularly trotted-out by Potto council, as the council seems to think that if a falsehood is published often enough, it must eventually be seen as true.

However, the facts are that the PIR recorded 17 (not 14) Recommendations for improvement. Furthermore, these were 'significant' weaknesses "of sufficient significance to warrant a PIR", even allowing for the small size of the council. They were NOT 'minor areas':

Consideration of the request that we issue a Public Interest Report

We have identified weaknesses in the governance and accountability of the Council, in particular in respect of heads A, B, E, F, G, I, J, K, L, M and N above.

In our view those matters, taken together, are significant, even allowing for the size of the Council. In our view they are of sufficient significance to warrant a Public Interest Report so that the matters can be brought to the attention of the public and the Council and appropriate corrective action taken.

This was further supported by the SAAA (Small Authorities Audit Appointments) the government group responsible for appointing external auditors and the PSAA (Public Sector Audit Appointments) who awarded Potto Parish Council a 70% reduction in the auditor's invoice due to the nature of the objections from the Appellant.

Contrary to the council's assertion, PSAA did not award the council a fee reduction; SAAA is responsible for this process.

The council's assertion of a reduction in the auditor's invoice is misleading; it is more accurately described as a reduction of the proportion of the invoice to be paid by the council (with SAAA providing the balance), so the auditors still received the full amount due on the invoices.

Furthermore, the assertion that the council's liability was reduced "*due to the nature of the objections from the Appellant*" is entirely fabricated deceit and utterly false. The nature of the Appellant's input was and is utterly irrelevant to the SAAA fee review process.

The fact is that SAAA reduced the council's share of fee liability because, and I quote directly from an SAAA email to me dated 17 May 2023, "*due to the disproportionate amount of fees falling on a small council and community*".

As can clearly be seen the Appellants behaviour has not changed, and as well as expanding his activities through pseudonyms and social media he is also now deliberately misleading a tribunal panel.

As already noted, the Appellants behaviour has changed; to quote Judge Goodman, "*the significant and substantial change in the Appellant's behaviour and correspondence...*".

The council has not been able to provide an example or substantiate its claims of pseudonyms.

The council has not been able to provide a single example of the Appellant's use of social media.

The Appellant is not misleading the Tribunal – I contend that it is quite clear from my comments to this council letter that it is actually Potto council that is now attempting to mislead the Tribunal.

The Appellant is continuing to expand on a ten-year campaign of Bullying, Harassment and Abuse towards Potto Parish Council, its service providers and members of Councillors families this behaviour cannot be acceptable or allowed to continue in this day and age. [Iteration three]

The Appellant has exercised a statutory right to highlight weaknesses in the council's Governance and Accountability, which have been overwhelmingly supported by the auditor in the PIR and in all audit reporting since 2014.

The Appellant has no contact with councillors' families.

Potto council has not a scrap of information to support its assertions of bullying and harassment, as, ironically, evidenced by its response of "*no documents held*" to element 7 of the 2021 information request, which formed the basis of this entire debacle.

Potto Parish Council is being unfairly compromised in its day to day activities by a single individual against the wishes of an entire community, this is completely undemocratic and unacceptable behaviour.

I contend Potto council is being compromised by its refusal and inability to recognise or address its extensive catalogue of weaknesses, even when these are very clearly recorded in a PIR.

It is quite bizarre that any council would attempt to blame its electors for its problems; an alarming strategy that simply emphasises its lack of sound governance.

Therefore, it is clear that the balance applied by the tribunal can be seen to be at the least misinformed. It is clear that the balance unanimously applied by each member of the Tribunal was correctly informed by evidence that was largely provided by Potto council to the ICO.

The charity Protection Against Stalking have designated the Appellant as an “Aggrieved “Stalker and noted that his behaviour is clearly contrary to section 2a Protection of Harassment Act 1997 (causing alarm and distress) (as amended by the Protection of Freedoms Act 2012).

This assertion is not supported by any evidence.

The Appellant has extended his vexatious comments and harassment to family members of councillors, This assertion is not supported by any examples or evidence.

... other members of the public who disagree with him and our internal auditor, This assertion is not supported by any examples or evidence.

... all actions that are clearly unacceptable in this day and age, Potto Parish Council has a Zero Tolerance policy against bullying, harassment and abuse and would expect this statutory right to be supported by other professional or regulatory bodies such as the ICO. [Iteration four]

The ICO website states “The ICO exists to empower you through information”.

The ICO does not have a role, scope or responsibilities to investigate or adjudicate upon any assertions of bullying, harassment and abuse.

Potto council’s assertions about the ICO are, yet again, entirely misguided.

Potto Parish Council is far from being the “Worst Small Parish Council” as described by the Appellant, The SAAA ‘Report on Auditors’ Work’ dated March 2023 states on page 14:

Occasionally a public interest report is issued as a result of an investigation: there have been four such reports in the five years since the introduction of the new assurance regime. One of these recorded an authority’s failure to comply with VAT regulations; in another case, the authority had not undertaken necessary due diligence in disposing of land; the other two PIRs drew public attention to multiple governance failings, including failure to ensure transparency and accountability and to follow proper processes in the conduct of business, including the making of financial decisions.

SAAA notes there are 10,000 UK audited smaller authorities and over five years (or 50,000 audits) only four PIRs were issued as a result of an audit investigation. Potto council was one of these four.

Two of these four authorities had single issue weaknesses (VAT regulations and a land sale) and the other two had multiple governance failings. Of these two, one PIR had 8 recommendations and the other PIR, issued to Potto council, had 17 Recommendations.

On the basis of this evidence, Potto council is, by some margin, the “worst small parish council”.

... despite the actions of the Appellant we manage to bring a wide range of services to our community, including many community project such as;

Queens Jubilee project

Heritage street sign renovations

Grass verge cutting

Footpath renovation and maintenance

Access for all to the countryside

Speed management projects

Etc

I suggest that this ‘wide range of services’ amounts to ‘diddly-squat’.

These provide levels of service and value for money far above the level of comparable parish councils for our parishioners

The fact is that Potto council has the 5th highest Band D council tax out of 170 similar councils in North Yorkshire (ref HM Government data), despite providing nil services to the parish (street signs are owned by and the responsibility of NYC Highways Dept, grass verges are cut by NYC Highways Dept and footpaths are the responsibility of the various landowners).

... as was demonstrated in the last local government elections where all members of the parish council were re-elected unopposed.

There have not been any balloted elections in Potto for many decades – all members are co-opted without any mandate or approval from electors.

Potto Parish Council is a fully transparent parish council who operate in an open and accessible manner. Councillors are all people who provide their time on a voluntary basis for the good of the community, they have a right to operate in an environment that is free from, Harassment, Abuse and Bullying, something that the parish council have been exposed to by Appellant for over 10 years and despite his claims he is clearly escalating his vexatious campaign. [Iteration five]

The council's assertions are all baseless and unsubstantiated nonsense.

In the tribunals reference to transparency to spending and financial management it should be noted that not of the issues raised by the Appellant of the PIR were financial in nature so this point is null and void.

I have to wonder if the council has even bothered to read the PIR. Several of the issues recorded in the PIR impacted 'finance', and two were entirely "financial in nature"; see excerpts below:

Council Tax precept

The Council has a power to raise funds by submitting a Council Tax precept to the District Council. This is an important power and legislation specifies how the precept is to be set, including by determining the reserves that it would be appropriate to raise or prudent to use, having regard to the estimated level of reserves at the end of the financial year.

Although the Council considered estimated income and expenditure in setting its Council Tax precept, it did not explicitly consider the level of reserves and reasonableness of that level as it was required to do.

R7: We recommend that the Council adopts a more structured approach to setting its Council Tax precept, including setting out in the report to the Council proposing the Council Tax precept and/or minutes of the Council meeting setting the precept, the estimated reserves that it would be appropriate to raise or prudent to use, having regard to the estimated level of reserves at the end of the financial year.

Authorisation of payments

A key control over the Council's finance involves the authorisation of payments by the Council. The Council receives and approves schedules of payments. However, the effectiveness of this control is reduced as the schedules exclude certain payments, including payment of salaries.

R8: We recommend that the Council explicitly approves all payments made.

Further, the Tribunal noted that the "Parish Council did not dispute the Appellants assertion that the PIR was an unusual course of action" this is clearly not the case.

It clearly is the case.

As the parish council noted in its comments to paragraph 8. f above, Rather than being unusual for a parish council to receive a PIR more than 100 have been issued over the last three years by the SAAA.

The number of '100' quoted by Potto council refers primarily to those authorities that received a PIR as they failed to submit an AGAR or submitted the AGAR late.

Potto council is attempting to downplay and portray its PIR as being nothing unusual – however, the exact reverse is the case. The NAO (in AGN-07) states:

Reporting in the public interest is one of the highest profile powers available to the auditor and is one which is taken particularly seriously by audited bodies and

The fact is (ref SAAA annual report) that there are 10,000 UK audited smaller authorities and over five years (or 50,000 audits) only four PIRs were issued as a result of an audit investigation.

Potto council was one of these four.

I suggest that only four PIRs issued (following an investigation) from 50,000 audits does make Potto council's PIR extremely unusual.

32, As noted by the tribunal in this paragraph the behaviour of the Appellant is entirely unacceptable, Potto council's wild opinion of the Appellant's behaviour is entirely unsubstantiated by any facts.

... however the Tribunal has only had to endure this experience over a very short period of time.

The members of the Tribunal have raised no concerns with the Appellant's recent behaviour and indeed have supported and endorsed the Appellants position by allowing the appeal against the ICO's DN and against Potto council's (now identified as 'unlawful') citing of S14(1).

Potto Parish Council members have had to endure this excessive and disproportionate language in the Appellants correspondences and publications and the totally unnecessarily personal, bullying and accusatory comments for more than 10 years and it is completely unreasonable to expect the members of the parish council to be subjected to this behaviour. [Iteration six]

It is only Potto council's unsubstantiated opinion that the Appellant's comments are "completely unreasonable".

If Potto council wants to see examples of bullying and intimidation it should look in a mirror.

As has been demonstrated in our comments above this vexatious behaviour is not only continuing, but also being escalated by the Appellant, [Iteration seven]

The evidence from Potto council's records demonstrates "the significant and substantial change in the Appellant's behaviour and correspondence".

I suggest that it would be of the greatest benefit to everyone concerned if the council could develop the capacity to acknowledge and recognise the folly of its opinions.

... and something needs to be done to protect councillors and their families from this totally unacceptable ongoing tirade of Abuse, Harassment and Bullying. [Iteration eight]

The "something [that] needs to be done" is for Potto council to recognise and acknowledge that members of the public have a statutory right (perhaps a civic duty) to hold their council to account, and do so without being endlessly threatened with harassment and labelled as vexatious.

Potto council needs to recognise the significance of the PIR and its 17 Recommendations, rather than attempt to appeal against the substance of the PIR and, when that failed, try to belittle and dismiss all the Recommendations as being minor or trivial. They're not

Conclusion

33. It is abundantly clear that the tribunal has been misled by the Appellant and that the conclusions can therefore not be seen as sound nor based on facts,

It is 'abundantly clear' that the Appellant's evidence is both cogent and substantiated with robust and independent evidence.

... we would request that this decision should be revisited, and the appropriate recognition of the facts be made. Consideration of the fact that the Appellant has deliberately attempted to mislead the tribunal should also be considered.

Potto council's request that the Tribunal's "decision should be revisited" emphasises the council's failure to acknowledge or understand proper procedure or indeed to seek advice, such as from YLCA, as how best to proceed in accordance with the Tribunal's RULES.

I note that Part 4 of the Tribunal's Rules state:

S39 - the appeal must be on a point of law

S41(2)(a)(b)(c)(d) states any appeal must satisfy one or more of these conditions

S41(3) states any appeal must be made within 28 days

S42(4)(d) states there must be a reason for why the application was not provided in time

S42(5)(g) states the application must identify the errors in law in the Tribunal's Decision

S42(5)(h) states the party making the application must state the result they are seeking

I contend that Potto council's application letter of 12 July 2023 (this letter) does NOT address, and is therefore in breach of, every single one of these Rules – the application is therefore wholly invalid.

Additional comments of Potto Parish Council

The Appellant has a long history of submitting Vexatious, and Abusive correspondences to Potto Parish Council (more than 10 years) and habitually harassing the Clerk, and Internal Auditor with Vexatious, Abusive and Derogatory remarks. [Iteration nine]

This unsubstantiated opinion, markedly unsupported by a single scrap of evidence, runs like a thread through the council's entire letter.

The fact that element 7 of the information request that initiated this saga was answered with 'no documents available' (ie, information not held) about advice, evidence or information from third-parties such as YLCA to support the council's endless reiteration of harassment, seems not to deter the council from continuing with its diatribe.

Such has been the on-going campaign of harassment that the stress suffered by the Clerk resulted in her having to see a doctor and take time off work,

There has never been any evidence provided to support this comment.

.... therefore the Parish Council has directed the Clerk not to answer any correspondences from the Appellant due to its statutory obligation to protect its employees from abuse, bullying and harassment in any form. [Iteration ten]

The clerk does not handle any of the council's correspondence, as it is all controlled and handled by the chair – the clerk's father.

Summary

Potto Parish Council takes any complaint extremely seriously....

The council's response to every complaint is NOT to investigate it in accordance with its Complaint Procedure, but to write in the meeting minutes that the complaint is vexatious or it is an act of harassment. This has always been self-evident and this policy remains embedded to date. For example, as long ago as 05 September 2015, Potto council stated to its auditor:

"This objection is the latest in an on-going series of vexatious complaints from [name redacted] against Potto Parish Council and its individual members".

Potto council has never once investigated any complaint to a recognisable professional standard. Accordingly, it quite demonstrably does NOT take "any complaint extremely seriously" – all the evidence determines that the exact opposite is the case.

PKF Littlejohn LLP stated on 31 January 2016:

- In respect of item 5a, we note that you have provided a number of examples of occasions when your correspondence with the Council has been censored or ignored, particularly in relation to your complaint against the Clerk submitted in April 2014. We are minded to recommend that the Council formalises its approach to dealing with elector correspondence and ensures that Agenda items referring to such correspondence are accurate in future. We are minded to include this point as an 'other' matter (not a qualification) on our External Auditor Report for 2014/15.

... and endeavours to meet all of our obligations under the FIA by making all of our parish council fully transparent and providing full and open access to information.

I contend this is an absurd and utterly ridiculous claim, completely at odds with all the evidence. PKF Littlejohn LLP stated on 21 July 2022:

However, it is evident that the Council has failed on many occasions to comply with the Freedom of Information Act 2000. We have not seen evidence of structured learning from the findings of the Information Commissioner, including adoption of documented procedures to minimise the risk of non-compliance going forward.

Unfortunately Potto council lacks the capacity to acknowledge, recognise or accept this authoritative independent and expert evidence and it continues to trot-out its blatantly ludicrous and unsubstantiated opinion to the contrary.

Potto council's capacity for self-deceit and self-delusion appears intact and unaffected by any and all evidence to the contrary.

If Potto council really was "fully transparent" and provided "full and open access to information"

there would obviously be no need for the public to make requests for *'missing information'* – the very title of the information request that initiated this saga.

That the ICO has issued 20 Decision Notices to Potto council, many recording breaches of the FOIA, determines that the council's assertion of being *"fully transparent"* is demonstrably false.

To put some context to this case, Potto Parish Council is a small rural parish of around 130 properties, the parish council consists of five volunteers from the community plus a clerk.

These details are entirely irrelevant to the determination of this case.

It is totally unacceptable that council member should have to deal with the sustained, vexatious abuse, bully and harassment as well as malicious communications and character assassinations being imposed on it by a single individual in the community. This is an assault on the lowest tier of local government, and councillors should not have to put up with this vexatious behaviour. [Iteration eleven]

This unsubstantiated opinion, markedly unsupported by a single scrap of evidence, runs like a thread through the council's entire letter.

The fact that element 7 of the information request that initiated this saga was answered with 'no documents available' (ie, information not held) about advice, evidence or information from third-parties such as YLCA to support the council's endless reiteration of harassment seems not to deter the council from continuing its diatribe.

It is crystal clear that PPC has acted appropriately under the FIA and provided the information requested.

I suggest that it is *'crystal clear'* that the council acted *'not in accordance with the law'* by citing the S14(1) exemption, as recorded in the Substitute Decision Notice.

Unfortunately the council still lacks the capacity to recognise this and the other pertinent details recorded in the Tribunal's Decision.

Further it is clear from the complainant's history that PPC is being subject to an on-going campaign of unreasonable behaviour by a single individual, this again as noted by Anthony Snelson Judge of the First Tier Tribunal dated 28th November 2019 "We hope that [redacted] will think very carefully before submitting FOIA requests again". Obviously, this advice has not been heeded as this is a clear continuation of previous submissions to the FOIC. [Iteration twelve]

However, I contend that events prior to 2019 (as noted by Judge Snelson), are no longer relevant *"because of the significant and substantial change in the Appellant's behaviour and correspondence"*.

I suggest that it would be of the greatest benefit to everyone concerned if the council could develop the capacity to move forward and acknowledge and recognise this change, rather than making a fool of itself by pretending otherwise.

It is also clear that the FOIC as an official body need to be cognisant of the history of the complainant's behaviour and the previous finding of your organisation especially those noted by the Commissioner dated 3rd May 2019 and Anthony Snelson Judge of the First Tier Tribunal dated 28th November 2019; when commenting on the appeal made by the complainant.

Events prior to 2019 are not relevant to this Tribunal – Judge Goodman stated in the Tribunal's Decision: *"the burden of the Request was not "inextricably linked" to the previous course of dealings [prior to 2019] because of the significant and substantial change in the Appellant's behaviour and correspondence"*.

Unfortunately the council appears to lack the capacity to understand the significance, sound reasoning and validity of Judge Goodman's statement.

Furthermore, the fact that Potto council is obligated to rely on irrelevant historical details to support its failing cause serves only to highlight that the council has no relevant, current or valid details to support its quite untenable position.

It should be clear to the Tribunal that Potto Parish Council has been subjected to more than 10 years of focused harassment and continues to be subjected to an on-going campaign of Harassment, Abuse and Bulling which is totally unacceptable in modern society. Councillors have the right to undertake their voluntary work in serving the community without fear of this sustained vexatious attacks, it can clearly be seen as a focused attack on the Individual Councillors as well as the First level of local government and Democracy itself.

[Iteration thirteen]

The fact is that North Yorkshire Police has (late 2022) interviewed a Potto councillor, following allegations of harassment and intimidation made by that councillor towards a member of the public – me. Strong words of advice were given to the councillor, and rejected. These words of advice were then sent by the Police Sergeant to the council; it recorded them as **“inappropriate”** in the October 2022 meeting minutes:

10.1 An email was received from North Yorkshire Police. A local resident contacted the police following a visitor from a councillor at his home. Sent email to YLCA and said Police response was inappropriate and they do not have the background of the case. The YLCA suggested we contact the Police back regarding this. * Circulate to Councillors before sent off*

This won't do

If the FOIC requires any action under this complaint or if you wish to discuss this matter further with PPC, please do not hesitate to let us know.

It is unclear what the term 'FOIC' means; perhaps it is a mangled reference to the Information Commissioner.

If there is any further way that we can assist, please let us know. We look forwards to receiving your decision.

Yours Faithfully

Potto Parish Council

Appellant's Summary

I suggest that the Tribunal may very likely be appalled by not only the aggressive tone of this council letter, but also that the endless reiteration (I have identified 13 such iterations above on a single point) of the same very few points is entirely irrelevant to the only point at issue.

However, most, perhaps all, of the council's letter is irrelevant or immaterial to the Tribunal. The sole point at issue is whether or not it was lawful to cite the S14(1) exemption. That's it

Whilst I feel that it is unfortunate that the FOIA 2000 does not define 'vexatious' or give any guidance as to the threshold for the proper citing of S14(1), 'case law' (such as ICO v Devon CC and Dransfield) is useful.

Accordingly, I have tried very hard to ensure that my input complies with each of the aspects and criteria identified by 'case law'. I am pleased to see that the Tribunal concurred.

The council's application to seek permission to appeal MUST comply with each of the criteria specified in Part 4 of the Tribunal's RULES.

Obviously, it doesn't

Potto council has a long and troubled history of not even bothering to attempt to seek out or adhere to the relevant guidance, rules or regulations, and it has struggled again here.

Indeed, it appears that the council initially tried to appeal to the ICO and, when that failed, it has asked the Tribunal to 'review' its Final Decision, apparently without realising that the only possible method of appeal (once compliance with the Rules has been verified) is by making an application to appeal to the Upper Tribunal.

This 12th July council letter contains the entirely predictable catalogue of what can only be

termed lies and deceit, concocted initially with the specific aim to mislead the ICO (albeit that the council's letter has now been amended in some places and forwarded to the Tribunal).

The tone of this letter includes many characteristics that engage with a failure of Governance and Accountability, which, please remember, was the thrust of the damning 2022 PIR:

Consideration of the request that we issue a Public Interest Report

We have identified weaknesses in the governance and accountability of the Council, in particular in respect of heads A, B, E, F, G, I, J, K, L, M and N above.

In our view those matters, taken together, are significant, even allowing for the size of the Council. In our view they are of sufficient significance to warrant a Public Interest Report so that the matters can be brought to the attention of the public and the Council and appropriate corrective action taken.

For clarity here, Potto council never acknowledges it could even remotely ever be at fault; its capacity for self-deceit seems limitless.

It still believes it is always 100% correct and perfect in everything it does and that it is always Electors, Auditors, PIR Investigations, Rishi Sunak MP, the ICO, the GRC Tribunal, the YLCA, the Monitoring Officer, the Police, Complainants, objectors, whistle-blowers, et al, that are in the wrong.

I suggest that, taking a broad and holistic view, Potto council is likely the most dysfunctional UK smaller authority in this regard.

Lastly, I suggest that the existence and sending of this 12 July letter was unlawfully executed (albeit this issue may be a more matter for PKF Littlejohn LLP than the Tribunal):-

Judge Goodman's Decision was given on 07 June 2023 and sent to the Appellant, Respondent and Potto council the same day.

Potto council's agenda dated 12 June 2023 did NOT record this Tribunal Decision as correspondence, nor as a topic of business; ditto the July 2023 agenda.

However, the council's July 2023 meeting minutes record at item 4.7:

- **Discussed tribunal regarding ICO appeal.**

Potto council's letter is dated 12th July and presumably it was presented by the chair as the subject of this council 'discussion', at the July meeting held a week later.

However, the council made a decision at the July meeting to make an appeal and this decision is NOT recorded in the minutes (an unlawful act – as ALL decisions of every council must be recorded).

Further, as this item of business was NOT on the July agenda and the draft of this letter was NOT published as a 'background paper' with the agenda, two more unlawful acts were committed.

I suggest that Potto council has acted in breach of its own Procedures and the Regulations by deciding to submit this application for permission to appeal.

Its routine failure to follow due process and the scope of its floundering activities and its maladministration appears unfortunately to be limitless.

Potto council appears stuck in a doom-loop of always blaming others, refusing to address its weaknesses and then repeating them; sadly, this 12th July letter doesn't break this cycle.

Thank you for reading to the end of Potto council's somewhat skewed, inappropriate, confused and misguided letter – I hope my comments in blue are helpful.

Thank you