



**IN THE FIRST-TIER TRIBUNAL
GENERAL REGULATORY CHAMBER
(INFORMATION RIGHTS)**

Appeal No: EA/2015/0085

ON APPEAL FROM:

The Information Commissioner's Decision Notice No: FS50552078

Dated: 10 March 2015

Appellant: Paul Gelder

Respondent: The Information Commissioner

Date of hearing: 15 July 2015

Venue: Field House

**Representation: Appellant: in person
Respondent did not appear**

Before
HH Judge Shanks
Judge
and
Pieter de Waal and Paul Taylor
Tribunal Members

Date of Decision: 20th July 2015

Subject matter:

Freedom of Information Act 2000

s.1	Whether information held
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DECISION OF THE FIRST-TIER TRIBUNAL

The Tribunal dismisses the appeal and upholds the Information Commissioner's decision notice dated 10 March 2015.

REASONS FOR DECISION

Introduction

1. Mr Gelder appeals against the Information Commissioner's decision notice dated 10 March 2015 relating to four requests for information under the Freedom of Information Act 2000 made by him from Thurrock Council relating to council tax. The Commissioner decided that in the case of the first three the Council did not hold the information requested and in the case of the fourth that the Council had supplied the information in the course of his enquiries.

Requests 1 and 2

2. As part of a request for information made on 19 December 2013 Mr Gelder asked the Council for the total cost in the financial year of (1) council tax administration and (2) council tax enforcement. The Council says it does not hold those figures and that it is not possible to break down the costs relating to council tax in this way. At the appeal hearing Mr Gelder accepted that the Council do not hold this information and we therefore uphold the Commissioner's decision in this respect.
3. In the course of the Council's review following Mr Gelder's complaint about the way these requests had been dealt with the Council informed him on 15 July 2014 that the council tax service was managed by Serco as part of a wider contract and that the assessed apportionment for the core council tax team provided by Serco was £675,808. At the appeal hearing he contended that the Commissioner ought to have found that this information was supplied in breach of section 10 of FOIA because it came more than 20 days after his initial requests. Since the information was not what he had asked for and was supplied voluntarily we reject this contention.

Request 3

4. When enforcing council tax Thurrock Council habitually seek and obtain from the magistrates' court costs of £65 for the issue of the summons and a further £30 when the court issues a liability order. Unsurprisingly, the relevant regulations (The Council Tax (Administration and Enforcement) Regulations 1992 regulation 34) provide that costs can be recovered at each of these stages in so far as those costs are reasonably incurred. As part of his request of 19 December 2013 Mr Gelder sought from the Council a detailed breakdown of the Council's figures of £65 and £30 respectively. The Council maintained that it did not hold such a breakdown and the Commissioner upheld the Council's position.

5. In the course of the process leading up to this appeal the Council have informed Mr Gelder that the conventional figure of £95 (as adjusted over time for inflation) used by the Council was "agreed" at a meeting held on 18 May 2000 between representatives of the Essex magistrates' courts and Essex district council recovery and enforcement officers. This followed an earlier meeting held on 17 November 1999 at which the magistrates had expressed disappointment at the wide variety of costs being claimed throughout the county. In response to this a detailed costing was produced and passed to the magistrates which was the origin of the £95 claimed by the Council. There is apparently no record of who produced the detailed costing. So far as the breakdown of the £95 between summons and liability order the Council itself split the £95 in the way it did on the basis of an estimate that 60% of staff time was spent dealing with the issue of summonses and 40% on liability orders.

6. Mr Gelder continues to maintain that the Council must hold a detailed breakdown of the £95. He relies on the "detailed costing" passed to the magistrates referred to above and on the fact that under the relevant Department for Communities and Local Government guidance it states that local authorities should be able to provide a breakdown of how costs are calculated on request. We are not persuaded by either of these points and accept that the Council do not hold a more detailed breakdown of the £95. As we say, there is no record of who produced the "detailed costing" at the

meeting in 2000 and, even if the Council were at some stage in possession of it there is no reason to believe they were still in possession of it in late 2013. The fact that they should have been able to provide a breakdown on request under the government's guidance does not of course mean that they were in fact able to do so.

Request 4

7. In the course of the Council's review of its response to the requests made on 19 December 2013 Mr Gelder asked for "the authority to charge these reasonable costs." The Council took this as a new request for information and in due course dealt with it by supplying an extract from the minutes of the meeting of 18 May 2000 which records "agreement" about the amount of costs between the magistrates and the enforcement officers.

8. Mr Gelder objects that this is not an "authority from the court to charge the costs." In that contention he is clearly correct. As we sought to explain to him in the course of the hearing, the authority to charge reasonable costs is contained in the 1992 Regulations and the "agreement" recorded at the meeting in 2000 has no legal status as such (although it was clearly sensible for a conventional county wide figure to be established). It remains open to Mr Gelder or any other council tax payer to challenge the charges in the context of legal proceedings, but that is not a matter for this Tribunal. However, so far as the request for information is concerned, it is clear that there is nothing further to be supplied to him.

Disposal

9. We therefore dismiss Mr Gelder's appeal.

10. This decision is unanimous.

HH Judge Shanks

20th July 2015