

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 18 June 2015

**Public Authority:** Wirral Borough Council  
**Address:** Town Hall  
Brighton Street  
Wallasey  
Wirral  
CH44 8ED

### **Decision (including any steps ordered)**

---

1. The complainant has requested information about movement assets paid for out of BIG grant. Wirral Borough Council (the Council) said that it did not hold the information requested by the complainant under section 1(1)(a) FOIA.
2. The Commissioner considers that the Council was correct to confirm that it did not hold any information under section 1(1)(a) of the Freedom of Information Act 2000 (FOIA).
3. The Commissioner requires no steps to be taken.

### **Request and response**

---

4. On 5 August 2014 the complainant requested information of the following description:

"I have finally in my possession the [named individual] Report on BIG after a wait of 22 months and thereby am now enabled by possessing more detailed information to make the following request.

Question 1

In March 2011 did Invest Wirral and [named individual] as advised by the Director of Law permit the movement assets paid for out of BIG grant from the above company to a second (likely [named company] in liquidation August 2013) without the asset being secured to Wirral Borough Council?

The liquidators statement of 21st April 2011 [named liquidator] makes no mention of any Fixed assets held within [named company] . Shielding assets from creditors, here owed over £200k, is illegal.

Question 2

Did WBC Legal services minute or consider this aspect? Were the asset not subject to a formal charge to WBC then effectively WBC would be condoning the shielding of assets from creditors, and if not informing [named liquidator] would be aiding and abetting a breach of Insolvency Law."

5. The Council responded. The Council said that it holds no information about the movement of assets from the company named in the request to a second company. It confirmed that the first company had completed the project expenditure before the first company went into liquidation and that the general conditions of the grant referred to the possibility of successor companies. It said any issue concerning the movement of assets would fall to be addressed by the liquidator of the first company. In relation to part 2 of the request, it referred the complainant to the substantive response to question 1 above. It said that it does not accept that it has either condoned the shielding of assets or aided and abetted a breach of insolvency legislation.
6. The complainant requested an internal review on 10 September 2014. The Council sent the outcome of its internal review on 3 February 2015. It upheld its original position.

### **Scope of the case**

---

7. The complainant contacted the Commissioner on 13 January 2015 to complain about the way his request for information had been handled.
8. The Commissioner has considered whether the Council was correct to confirm that it does not hold any information relevant to the scope of the request under section 1(1)(a) FOIA.

## **Reasons for decision**

---

9. Section 1(1)(a) of FOIA states that, "Any person making a request for information to a public authority is entitled – to be informed in writing by the public authority whether it holds information of the description specified in the request".
10. The Council provided the Commissioner with submissions and background information to explain why it considers the requested information is not held. The Council explained that it considers this background information, which does not fall within the scope of the request, is confidential. The Commissioner has therefore detailed these arguments in the confidential annex attached to this Notice
11. Having considered these submissions and the background information the Commissioner has concluded that on the balance of probabilities, the requested information is not held.

## Right of appeal

---

12. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)  
GRC & GRP Tribunals,  
PO Box 9300,  
LEICESTER,  
LE1 8DJ

Tel: 0300 1234504

Fax: 0116 249 4253

Email: [GRC@hmcts.gsi.gov.uk](mailto:GRC@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

13. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
14. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

**Signed .....**

**Pamela Clements**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**