

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 16 September 2015

Public Authority: North East Lincolnshire Council

Address: Municipal Offices
Town Hall Square
Grimsby
DN31 1HU

Decision (including any steps ordered)

1. The complainant has requested information with regards to policies and procedures used for tax debt recovery. North East Lincolnshire Council (the council) provided the complainant with the information it held. The complainant considered further information was held.
2. The Commissioner's decision is that the council held further information, which was provided to the Commissioner during the course of his investigation, and in turn, was provided to the complainant. With this, the Commissioner found that the council breached regulation 10(1) of the FOIA as it did not provide all the information it held within the scope of the case within the required 20 working days from receipt of the request.
3. Other than the information initially provided and the further information provided to the Commissioner during his investigations, the Commissioner has determined that no further information is held by the council within the scope of the request.
4. As all the information has now been provided to the complainant, the Commissioner does not require the council to take any steps.

Request and response

5. On 9 January 2015, the complainant wrote to the council and requested the following:

"Please provide complete copies of the following information:

- 1. All Council Tax debt recovery policies and procedures and any other policies and procedures that are used by Council employees in their investigation and determination of a Council Tax debt through to the latter stages of obtaining a liability order including those that provide guidance/protocols for the Executive Director Resources Directorate in obtaining a summons for non-payment of Council Tax from the Magistrates' Court."*
- 2. All policy and procedures that provides guidance/protocols for Council employees on the use of and storage of all personal data relating to an alleged Council Tax debtor.*
6. The council responded on the 22 January 2015. For the first part of the request, the council advised that it uses the relevant legislation outlined in the following link: <http://www.nelincs.gov.uk/resident/council-tax/what-is-council-tax/>
7. For the second part of the request, the council provided a link which shows the Data Protection Policies which its employees adhere to: <http://www.nelincs.gov.uk/council/the-council-as-an-organisation/data-protection/data-protection-act/>
8. The council also advised that its employees within the revenues section also complete web based training in Data Protection Awareness and Introduction to Information Security.
9. The complainant requested an internal review on the 24 January 2015 with regards to the first part of his request. He stated that the link provided for the first part of his request primarily consists of information relating to council tax and non-domestic rates with further links that contain guidance and information for council tax debtors.
10. He advised that he has not received any information about the council's policies and procedures for their employees, including those that provide guidance/ protocols for the Executive Resource Directorate.
11. The council provided its internal review on the 24 February 2015. It advised that the website link supplied in its initial response provides an explanation of the administration of council tax and the relevant legislation followed by the council. The webpage includes a link to www.legislation.gov.uk and explains that regulations are set out in the Local Government Finance Act 1992.
12. The council then confirmed that there is no further information held falling within the scope of the request.

Scope of the case

13. The complainant contacted the Commissioner on the 24 February 2015 as he does not consider that the council has provided all the information held within the scope of his request.
14. The Commissioner therefore considers the scope of the case is to determine whether the council has provided the complainant with all the recorded information it holds within the scope of the request.
15. Should the Commissioner determine the council holds any additional information, he will go on to consider whether it has breached section 10(1) of the FOIA. The requirement to provide information within 20 working days following receipt of a request.

Reasons for decision

Section 1 of the FOIA – Held/ Not Held

16. Section 1 of the 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 within the scope of the request, and if so, to have that information communicated to him.
17. Where there is some dispute between the amount of information identified by a public authority and the amount of information that a complainant believes may be held, the Commissioner, following the lead of a number of First-tier Tribunal decisions must decide whether, on the civil standard of the balance of probabilities, the public authority holds any information which falls within the scope of the request (or was held at the time of the request).
18. The complainant outlined to the Commissioner what other information he considers to be held by the council within the scope of his request, providing the Commissioner with a copy of the council's Debt management Strategy highlighting sections of it and providing his comments at the end of each part. He stated:

"The Council's Debt Management Strategy (ICO retains a copy) states:

"i ... causes of debt vary and recovery methods should be focused accordingly.

ii (Debtors) will receive appropriate assistance and support through debt management and benefit advice, helped to make

and adhere to payment arrangements and understand options to minimise costs in the future.

iii At the recovery stage the Council will review the totality of the citizens debts under the control of the Corporate Debt Management Team and will attempt to arrange a single payment arrangement for all debts.

iv The Council will have appropriate tools of recovery will be focused on debt collection depending on individuals circumstances and their assets or income.

v The Council will raise invoices in a timely manner and will pursue all monies owed; this will include the use of external debt collection agencies and bailiffs where the standard recovery processes have failed to clear the debt."

From this the complainant considers:

"The Council aims, as outlined above, must be approached by all employees of the Corporate Debt Management Team in a transparent and systematic manner, that is harmonized with Data Protection and Human Rights legislation, and therefore the local authority will hold adopted policies and procedures for those employees to ensure an alleged debtor is treated in fair and consistent manner that is aligned with those aims when processing an alleged debtor's personal information for the purposes of collecting Council Tax debt."

Secondly the complainant has stated:

"Moreover, the strategy also states:

"i Every bill or invoice will be correctly addressed to the person or organisation liable to pay it. The name on the invoice or bill will be that of a person or body possessing 'legal personality'.

ii Sufficient evidence to secure recovery of the debt in the courts must be compiled when an invoice is raised. All documentation relating to the bill or invoice will be kept by the originating department, either in paper or a scanned image format, for 6 years after the last recovery action.

iii In each case the Council will use the most appropriate and effective method of recovery in order to maximise income.

iv All bills, invoices, reminders and final notices will be issued using the most cost-effective means available.

v As prompt recovery action is key to managing debt and maximising income the Council will:

- *Have clear documented recovery procedures and processes."*

Without a doubt, these particular aims must be approached by all employees of the Corporate Debt Management Team and the Executive Director Resources Directorate in a transparent and systematic manner, that is harmonized with Data Protection and Human Rights legislation, where adopted policies and procedures will provide clear guidance for those employees and the Executive Director Resources Directorate who undertake these aims through the processing of personal information and more importantly, those employees including the Executive Director Resources Directorate who process evidence and instigates criminal proceedings in a Magistrates' Court, on behalf of the Council as a prosecutor, for the non-payment of Council Tax debt against an alleged debtor.

In light of the above, I believe the Council hold clear documented recovery procedures and processes which they have failed to provide copies of to me."

19. The Commissioner took this to the council asking them to consider this and respond to the complainant's view that it must have "*clear documented recovery procedures and processes*", by explaining to the Commissioner what searches it had carried out to determine no other information is held.
20. The council has told the Commissioner that if further information were held, then the most likely place would be in its Local Taxation and Benefits Shared Service and its Debt Management Manager has searched local drives and network storage. It did not use search terms as the information is not held in a way that requires this to be done.
21. It advised the Commissioner that the information would be held electronically and all relevant policies and strategies are published on the council website.
22. The council has confirmed that no information relevant to the request has been deleted or destroyed and it has been unable to identify any business purpose or statutory requirement to hold any further information described by the complainant.

23. Although the council has confirmed to the Commissioner that its view is that it has provided the complainant with all the information it holds falling within the scope of the initial request it has provided the Commissioner with three additional documents titled "*Council Tax Exemptions*", "*Establishing the liability*" and "*Other discount and disregards*".
24. It has explained to the Commissioner that it does not consider this information to fit the scope of the initial scope of the information request as these documents are training documents used by new starters to the service whilst they establish the principles in handling cases, but are not a procedure to be followed in all cases.
25. The council has also advised the Commissioner that when its officers are considering how to approach a specific case, a source they consult is the Institute of Revenues, Ratings and Valuation (IRRV). As this contains details of case law and best practice relating to the Local Government Finance Act 1992 and the Council Tax (Administration and Enforcement) Regulations 1992. Although the council does not consider that this falls within the scope of the request either, it has advised the Commissioner of this to highlight the extent of information used by officers in establishing liability.
26. The complainant has been provided with copies of these documents following an information request he made to the Commissioner whilst the investigation of this case was taking place. The council had no objection to the Commissioner providing this information and so was sent to the complainant on 18 June 2015.
27. The complainant has told the Commissioner that he considers that this further information falls within the scope of his request as managers and officers use this information when they undergo training to assist them in bringing prosecution against and summoning defendants to court.
28. The Commissioner is also of the view that this information would fall within the scope of the complainant's request. The very explanation by the council that these are used by new starters to establish the principles in handling cases, but are not a procedure to be followed in all cases seems to the Commissioner to fit the complainant's request for all policies and procedures and any other policy and procedures. Even if these are not used in 'all cases'.
29. Also the IRRV is a source officers can consult when considering how to approach a specific case. This in the Commissioner's view, after considering the council's explanations, something that provides guidance to officers.

30. However, as these further documents have been provided to the complainant, via an information request to the Commissioner, he does not require the council to provide him with further copies of these documents as it would not be an efficient use of resources for the same information to be resent to the complainant. But the Commissioner will consider whether the council has breached section 10(1) of the FOIA in not providing it initially.
31. With regards to whether any other further information is held, the Commissioner has considered the council's responses and the searches carried out. He has also considered the complainants reasoning that further information is held. The Commissioner sees why the complainant considers further information to be held, especially when the council provided the Commissioner with information it considered not to fall within the scope of the request, but has been found to.
32. As the council has explained to the Commissioner that it has carried out relevant searches, without any evidence to show that any more specific information is held the Commissioner can only conclude that on the balance of probabilities that no further information is held by the council.

Section 10(1) of the FOIA

33. Section 10(1) of the FOIA states:

"... a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following receipt."

34. Therefore the council is required to provide all the information it holds within the scope of the request, barring any exemptions, within 20 working days of receiving a request.
35. The further documents titled "*Council Tax Exemptions*", "*Establishing the liability*" and "*Other discount and disregards*" that the Commissioner has found to fall within the scope of the request were not provided to the complainant within this required timeframe.
36. Therefore the Commissioner finds that the council has breached section 10(1) of the FOIA as it did not provide all the information held relevant to the scope of the request within 20 working days of receiving the request.

Right of appeal

37. 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: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

38. 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.
39. 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

Andrew White
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF