

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

### **Decision notice**

**Date:** 30 April 2024

**Public Authority:** Darlington Borough Council  
**Address:** Town Hall  
Feethams  
Darlington  
County Durham  
DL1 5QT

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

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1. The complainant requested information from Darlington Borough Council ("the Council") relating to council tax, business rates and penalty charge notice cases that have been referred to an enforcement agency.
2. The Commissioner's decision is the Council is entitled to rely on section 12(1) (cost limit) of FOIA to refuse to comply with the request. He also finds that the Council met its obligations under section 16(1) of FOIA to offer advice and assistance.
3. The Commissioner does not require the Council to take any steps.

#### **Request and response**

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4. On 26 October 2023, the complainant wrote to the Council and requested the information in the annex to this notice.
5. The Council responded on 28 November 2023 and refused to comply with the request citing section 12(1) (cost limit) as its basis for doing so.
6. On 17 January 2024 the Council provided the complainant with the outcome of its internal review in which it maintained its reliance on section 12(1) of FOIA to refuse to comply with the request.

## Reasons for decision

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7. This reasoning covers whether the Council is entitled to rely on section 12(1) of FOIA to refuse to comply with the request.

### Section 12(1) – cost of compliance

8. Section 12(1) of FOIA states that a public authority is not obliged to comply with a request for information if the authority estimates that the cost of complying with the request would exceed the appropriate cost limit. The appropriate limit for public authorities such as the Council is £450. As the cost of complying with a request must be calculated at the rate of £25 per hour, section 12(1) effectively imposes a time limit of 18 hours for the Council.
9. A public authority can only take into account the cost it reasonably expects to incur in carrying out the following permitted activities in complying with the request:
  - determining whether the information is held
  - locating the information, or a document containing it
  - retrieving the information, or a document containing it
  - and extracting the information from a document containing it
10. In its submissions to the Commissioner, the Council explained that in order to provide the requested information, it would firstly need to identify the cases that were referred to an enforcement agency during the time period stated in the request by checking the spreadsheet that service areas complete when referring a case. It stated that it would then need to locate the cases that were referred to an enforcement agency in its enforcement agency case management system and extract the requested information from each case.
11. The Council explained that during the time period stated in the request, 6582 cases were referred to an enforcement agency. It stated that all 6582 cases would need to be reviewed in order to provide the requested information. The Council estimates that it would take approximately 15 minutes identify each case that was referred to an enforcement agency, locate the case in its case management system and then extract the requested information from the case. The Council confirmed that its estimate is based on a sampling exercise. Therefore, it calculated that in total, it would take 1645 hours to provide the requested information (6582 cases x 15 minutes = 1645 hours) which equates to £41,125 (1645 hours x £25 = £41,125).

12. The Council considers its estimate to be based on the quickest method of gathering the requested information. It explained that whilst it receives monthly management information from the enforcement agency which includes details of referred cases and monies collected by the enforcement agency, the monthly management information does not include the specific information requested.
13. Based on the explanation provided by the Council, the Commissioner accepts that it would be necessary for the Council to review all 6582 cases that were referred to an enforcement agency during the time period stated in the request in order to provide the requested information. He considers the Council's estimate of 15 minutes to identify each case that was referred an enforcement agency, locate the case in its case management system, and then extract the requested information from that case to be reasonable. Even if the Council were to take only one minute per case, the cost of complying with the request would still significantly exceed the appropriate limit.
14. The Commissioner's view is that the Council has estimated reasonably that the cost of complying with the complainant's information request would exceed the appropriate limit. Therefore, the Commissioner's decision is that the Council is entitled to rely on section 12(1) of FOIA to refuse to comply with the request.

### **Section 16 – advice and assistance**

15. Section 16(1) of FOIA provides that a public authority should give advice and assistance to any person making an information request. Section 16(2) clarifies that, providing an authority conforms to the recommendations as to good practice contained within the section 45 code of practice<sup>1</sup> in providing advice and assistance, it will have complied with section 16(1).
16. In its initial response to the request the Council advised the complainant that they could refine the scope of their request by limiting their request to the information requested in the first two columns of the table in the request, that being the number of cases referred to an enforcement agency and the value of those cases.

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<sup>1</sup> <https://www.gov.uk/government/publications/freedom-of-information-code-of-practice>

17. The Commissioner considers that this was an appropriate response in the circumstances. He is therefore satisfied that the Council met its obligations under section 16(1) of FOIA.

## **Right of appeal**

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18. 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: 0203 936 8963

Fax: 0870 739 5836

Email: [grc@justice.gov.uk](mailto:grc@justice.gov.uk)

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

19. 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.
20. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

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

**Annex – request for information**

In accordance with the FOIA, please may Darlington Council confirm which Enforcement Agent/s are/is used to collect unpaid Council Tax, Business Rates and Penalty Charge Notices.

Please provide the following information in respect of Council Tax, Business Rates and Penalty Charge Notice cases (liability orders/warrants) that have been referred to Enforcement Agents, by month, from April 2020. We would like the data provided for separately for each debt type in the following table: -

Year	Month	No Cases Referred To EA	Value Of Cases	Amount Collected By EA (For These Cases)	No Live Cases With EA	Value Of Live Cases With EA	No On Arrangement With EA	Value Of Cases On Arrangement With EA
2020/21	April							
2020/21	May							
2020/21	June							
2020/21	July							
2020/21	August							
2020/21	September							
2020/21	October							
2020/21	November							

2020/21	December						
2020/21	January						
2020/21	February						
2020/21	March						
Total							
2021/22	April						
2021/22	May						
2021/22	June						
2021/22	July						
2021/22	August						
2021/22	September						
2021/22	October						
2021/22	November						
2021/22	December						
2021/22	January						
2021/22	February						

2021/22	March							
Total								
2022/23	April							
2022/23	May							
2022/23	June							
2022/23	July							
2022/23	August							
2022/23	September							
2022/23	October							
2022/23	November							
2022/23	December							
2022/23	January							
2022/23	February							
2022/23	March							
Total								
2023/24	April							



2023/24	May							
2023/24	June							
2023/24	July							
2023/24	August							
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2023/24	February							
2023/24	March							