

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 4 September 2014

Public Authority: Leeds City Council

Address: Civic Hall
Calverley Street
Leeds
LS1 1UR

Decision (including any steps ordered)

1. The complainant has requested full details of the costs incurred by Leeds City Council in its attempt to establish liability regarding council tax for a specific address. The Commissioner's decision is that, on the balance of probabilities, Leeds City Council does not hold the requested information. He does not require the council to take any steps to ensure compliance with the legislation.

Request and response

2. On 19 December 2013, the complainant wrote to Leeds City Council ('the council') and requested information in the following terms:

"I am hereby making a formal request under the Freedom of Information Act for full details of the costs incurred by the council (eg wages, postage, etc.) which have been incurred in your attempts to establish liability in this matter."
3. The council responded on 24 December 2013 and informed the complainant that the information requested is exempt under section 40 of the FOIA and that he would need to make a formal Subject Access Request in order for the council to fully consider a detailed response.
4. On 9 and 28 January 2014 the complainant wrote to the council expressing dissatisfaction with the response and asking for an explanation as to why section 40 of the FOIA applied and why a Subject

Access Request would be needed. He said he is unable to work out why a request for information on the councils cost with regard to determination of the correct person to be liable for council tax on a let property for a specific period is covered by section 40 of the FOIA.

5. The council wrote to the complainant on 28 January 2014 stating that the information is exempt under section 40(1) of the FOIA, as it constitutes his personal data, and providing a Subject Access Request form.
6. On 10 February 2014 the complainant wrote to the council disputing that the requested information, that being details of the expenditure incurred by the council with regards to determining the liability for council tax on a specific property for a specific period for which an exemption has been granted, was his personal data and asking that the information be provided to him as soon as possible.
7. Following the involvement of the Information Commissioner, the council issued a further response on 4 March 2014. It provided information relating to postage costs and said that it does not hold 'the information regarding the cost incurred by staff dealing with the matter as the time spent on individual accounts is not separately recorded.'
8. The complainant wrote to the council again on 4 March 2014 expressing his surprise that council records do not separate out time spent on individual cases and posing further questions.

Scope of the case

9. The complainant contacted the Commissioner on 25 February 2014 to complain about the way his request for information had been handled.
10. The Commissioner has considered whether the council holds any further information within the scope of the request.
11. For clarity, the council issued a response on 30 June 2014 to the further questions asked by the complainant on 4 March 2014. There has been no complaint made to the Commissioner regarding that response and therefore the requests made on 4 March 2014 are not included within the scope of this decision notice.

Reasons for decision

12. Section 1 of the FOIA states that any person making a request for information is entitled to be informed by the public authority whether it holds the information and if so, to have that information communicated to him.
13. In cases where a dispute arises over the extent of the recorded information that was held by a public authority at the time of a request, the Commissioner will consider the complainant's evidence and argument. He will also consider the actions taken by the authority to check that the information is not held and any other reasons offered by the public authority to explain why the information is not held. He will also consider any reason why it is inherently likely or unlikely that information is not held. For clarity, the Commissioner is not expected to prove categorically whether the information was held, he is only required to make a judgement on whether the information was held on the civil standard of the balance of probabilities.
14. The complainant was surprised that the council's records do not separate out time spent on individual cases and said that 'this lack of information suggests that no account is taken of the costs and benefits of individual cases and that excessive amount of expenditure (far outweighing the money recovered) may be being spent on individual cases'.
15. The Commissioner enquired as to whether the information has ever been held, the scope, quality, thoroughness and results of the searches carried out by the council, whether information had ever been held but deleted and whether copies of information may have been made and held in other locations. He also enquired whether there was any legal requirement or business need for the council to hold the information. The council explained to the Commissioner that under current council tax legislation there is no requirement for the council to record officer time spent on administering individual accounts, therefore the council does not currently, nor has it ever recorded how much officer time is spent on individual accounts. It further explained to the complainant that it has not considered recording the time spent on individual cases as it is of the view that this would lead to increased administration costs.
16. The Commissioner also considered whether the council had any reason or motive to conceal the requested information. He acknowledges that the complainant suspects that the costs incurred are likely to be more than the £68.72 council tax that was being asked for, but he has not

seen any evidence of that this is the case. Therefore he has not identified any reason or motive to conceal the requested information.

17. In the circumstances, the Commissioner does not consider that there is any evidence that would justify refusing to accept the council's position that it does not hold any further information relevant to this request. The Commissioner is therefore satisfied that on the balance of probabilities, the information is not held by the council. Accordingly, he does not consider that there was any evidence of a breach of section 1 of the FOIA.

Right of appeal

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: 0300 1234504

Fax: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk

Website: 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.

Signed

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