

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 8 September 2023

Public Authority: Harlow District Council
Address: Civic Centre
The Water Gardens
College Square
Harlow
Essex
CM20 1WG

Decision (including any steps ordered)

1. The complainant requested information from Harlow District Council ('the council') on the council use of council tax. The council disclosed the information which it says it holds. The complainant argues that the council has not provided the information which she requested.
2. The Commissioner's decision is that the council was correct to state that it holds no further information beyond that already provided by it. He has also decided that, as it has disclosed the information which it does hold, the council has therefore complied with the requirements of section 1 of FOIA.
3. The Commissioner does not require the council to take any steps.

Request and response

4. On 15 February 2023, the complainant wrote to the council and requested information in the following terms:

"I would like to request proof of where the (Harlow) Resident's Council Tax Payments are being spent.

1. I would like to see the previous 3 years of receipts for where the council tax funding is being spent. I do not want to see percentages but proof in pounds (£s) as to where the annual council tax is being spent.
2. I would like to know if my council tax funds Harlow/Essex Police Service. Harlow/Essex/east of England Ambulance Service, Harlow Waste Collection and Schools. If so, I would like to know as to what percentage is being distributed?
3. Which law, not legislation, states that council tax must be paid?
4. Which law states that it is a criminal offence to not pay council tax?

In your response, please also attach the copy of contract in where I agreed to pay for council tax. Please keep in mind that an 'assumption agreement' does not stand up in court."

5. The council responded on 16 March 2023 and:
1. Provided a link to relevant information
 2. Provided a link to relevant information
 3. Advised the requestor of the relevant legislation
 4. Said that it was not a criminal offence not to pay council tax
 5. Said that as it was a tax, no contract is required.
6. On 2 April 2023, the complainant asked the council to provide her with the exact information specified in parts 1 and 2 of the request.
7. On 23 April 2023, she chased a response, and said that she wished to have "the exact expenditure and receipts, not the budget plans that are already available online publicly".
8. The council provided an internal review on 24 May 2023. As regards part 1 of the request it said that it does not hold the information as individual receipts are not allocated against specific council tax income. In response to part 2, it reiterated that the information was held in the link it had provided previously.

Scope of the case

9. The complainant contacted the Commissioner on 19 June 2023 to complain about the way her request for information had been handled.
10. She argues that the council has not provided her with the information she requested in parts 1 and 2 of her request.
11. The Commissioner therefore considers that the scope of his investigation is to consider whether section 1(1) of FOIA has been complied with.

Reasons for decision

Section 1 – General right of access to information

12. Section 1(1) requires that a public authority must inform a requestor, in writing, whether it holds information falling within the scope of the request. If it does hold relevant information, it also requires that it communicates the information to the requestor, subject to any exclusions or exemptions applying.
13. In scenarios where there is some dispute between the amount of information held which a public authority says it holds, and the amount of information that a complainant believes is held, the Commissioner, following the lead of a number of First-tier Tribunal (Information Rights) decisions, applies the civil standard of the balance of probabilities.
14. In other words, in order to determine such complaints, the Commissioner must decide whether, on the balance of probabilities, a public authority holds any - or additional - information which falls within the scope of the request.

The complainant's position

15. The complainant argues that the council holds the information she has requested, but that it has not disclosed this to her.

The council's position

Part 1 of the request

16. In response to part one of the request, the council explained that the council is subject to ongoing audit processes, and it publishes all spending over £500.

17. It argues that it does not specifically record what services council tax income is used for because the funds received from council tax are added to its overall budget and allocated and spent from within that budget. Each item of expenditure may therefore include a portion of council tax income, but that cannot be quantified, and it is therefore unable to provide individual receipts, nor provide information in the form of proof or evidence in pounds.
18. The Commissioner is persuaded by this argument. Council tax which it receives is added to the overall budget available to the council, and that pool of money is allocated to departments and subsequently used to pay for goods and services as part of the overall budget. There is no specific breakdown of how money received from council tax is therefore used to make payments as these are made from the overall funds available to it. In essence, therefore, all payments would include a percentage of money received by the council from council tax, but this is not recorded information, and no receipts would be held for that purpose.
19. There is no contradictory evidence available to the Commissioner that indicates the council's position is wrong.
20. On this basis the Commissioner has concluded that, on the balance of probabilities, no further information falling within the scope of the complainant's request for information is held by the council.
21. The Commissioner is therefore satisfied that the council has complied with the requirements of section 1(1) with its response to the request.

Part 2 of the request

22. As regards its response to part 2 of the request, the council argued that it provided the requestor with a link to a page on its website which demonstrates how council tax is allocated to other authorities. The page also provides further links to Essex County Council, Essex Police, and Essex County Fire and Rescue. In providing this, the council argues that the requestor was provided with the information it holds on the specified services which are funded by council tax collected by the council.
23. It said that it does not publish the data in percentage form, however the financial details provided on its web page allow the complainant to easily calculate the percentages for the funds provided to each of the bodies receiving funds from council tax. In addition, it argued that information on council tax spending is included on demands for council tax payments which it issues to the public.

24. The council noted that a section of its website: 'Where your Council Tax goes' (Harlow Council) includes an explanation of how each £100 of Council Tax collected by Harlow Council is apportioned between the 4 relevant bodies named as in receipt of the council tax collected by it, together with a breakdown of how much council tax is given to each for the financial year.¹
25. The Commissioner has considered the council's argument. It has provided details on its funding of the other organisations referred to in the request, and from this, the percentages requested by the complainant can easily be ascertained.
26. The Commissioner is therefore satisfied that the council has complied with section 1(1) in its response to the request.

The Commissioner's conclusion

Part 1

27. Whilst the Commissioner recognises that the complainant believes that the council should hold further information falling within the scope of part 1 of her request, the council has been clear that no information is held by it and provided a clear explanation as to why that is the case.
28. The Commissioner's decision is that the council was correct to state that no further information is held beyond that it has already disclosed, and therefore it has complied with the requirements of section 1 of FOIA in its response to this part of the request.

Part 2

29. As regards part 2, the council has provided the complainant with a link to where the information she has requested is published. This will easily allow the information to be ascertained in the format in which she has requested it.
30. The Commissioner has therefore decided that the council has directed the complainant to where the information is already available, and it has therefore complied with the requirements of section 1 of FOIA.

¹ <https://www.harlow.gov.uk/council-tax/where-your-council-tax-goes#:~:text=Your%20Council%20Tax%20bill%20is,for%20Essex%20on%20your%20bill>)

Right of appeal

31. 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

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

32. 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.

33. 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

Ian Walley
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF