

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 13 December 2016

Public Authority: North East Lincolnshire Council

Address: Municipal Offices
Town Hall Square
Grimsby
DN31 1HU

Decision (including any steps ordered)

1. The complainant has made a request to North East Lincolnshire Council ("the Council") for the general information provided to Enforcement Agents when enforcing a Liability Order. The Council disclosed held information, but the complainant disputed the completeness of this.
2. The Commissioner's decision is that no further recorded information is likely to be held and that the Council has complied with section 1(1).
3. The Commissioner does not require the public authority to take any steps.

Request and response

4. On 25 May 2016 the complainant requested:

Please see threatening Bailiff letter from [redacted Enforcement Agents] on behalf of North East Lincolnshire Council's Revenues & Benefits Service (above link).

I'd like disclosing all relevant information which the Council provided in referring the case to [redacted Enforcement Agents], particularly regarding the Liability Order to enforce the alleged debt having been obtained fraudulently from Grimsby Magistrates' court.

5. On 15 June 2016 the Council responded. It disclosed the general information that is provided to Enforcement Agents when enforcing a Liability Order.
6. On 16 June 2016 the complainant requested an internal review on the basis that further information must be held.
7. On 1 July 2016 the Council provided the outcome of its internal review. In this it confirmed that no further information was held, and that any information in relation to a specific Liability Order would be personal data and subject to an exemption under section 40.

Scope of the case

8. The complainant contacted the Commissioner on 1 July 2016 to complain about the Council's response. Specifically, the complainant contested that further information must be held in relation to the request. The complainant also clarified that the request does not seek any information which would be classed as personal data and subject to an exemption under section 40.
9. The Commissioner considers the scope of this case to be the determination of whether the Council has complied with section 1(1) by disclosing all relevant held information in response to the request that would not be subject to an exemption under section 40.

Reasons for decision

Section 1(1) – Whether information is held

10. Section 1(1) 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 them. This is subject to any exemptions or exclusions that may apply.

The complainant's position

11. The complainant believes that the Council provides certain information (namely 'guidance, case law, or training material') to Enforcement Agents in scenarios where a debtor disputes a Liability Order. The complainant as described the reasoning for this as:

The assumption was that [redacted Enforcement Agents] would be appropriately briefed in order for the assigned bailiff to anticipate the

likely difficulties he would face demanding money from someone not owing any.

12. The complainant argues that there are clearly circumstances where the Council is aware that a debtor disputes the Liability Order, but instructs its Enforcement Agents to seek payment regardless. The complainant has explained that the request seeks the information that the Council provides to the Enforcement Agents in such a scenario.

The Council's position

13. The Council has informed the Commissioner that in responding to the request it has conferred with the Local Taxation service and Debt Management Manager. The Council has explained that the Local Taxation service is responsible for the provision of information to Enforcement Agents.
14. The Council has specified the ten categories of information that are provided to the Enforcement Agents within an electronic file. These ten categories were described to the complainant in the Council's response of 15 June 2016.
15. When the electronic file is provided to the Enforcement Agents, there is no provision for the Council to add other information to it, as this would prevent a clean uploading of the file by the Enforcement Agents. The Council has also noted that there is no reason for it to add other information, as the matter will have already been addressed through the courts (including any dispute by an involved party) before the any Liability Order is issued. The Council is able to provide the ten categories of information to the Enforcement Agents under the terms of The Local Authorities (Contracting out of Council Tax Billing, Collection and Enforcement Functions) Order 1996.

The Commissioner's conclusion

16. When the Commissioner receives a complaint that a public authority has not provided any or all of the requested information, it is seldom possible to prove with absolute certainty that there either isn't any information or anything further to add. The Commissioner will apply the normal civil standard of proof in determining the case, i.e. she will decide on the balance of probabilities whether the information is held.
17. In the circumstances of this request the Council has provided clear submissions that outline how (and what) information is provided to Enforcement Agents in relation to enforcing a Liability Order. Although the complainant believes that certain information must also be provided to the Enforcement Agent for scenarios where the debtor disputes the Liability Order, there is no immediate evidence to support this. The

Commissioner also notes that responsibility for considering a disputed debt is held by the courts rather than an Enforcement Agent, which makes it seem further unlikely that Enforcement Agents are briefed on how to manage such scenarios.

18. On this basis the Commissioner must find that the specific information sought by the complainant is unlikely to be held, and that the Council has complied with section 1(1).

Other matters

19. The Commissioner understands that this request relates to a wider dispute between the complainant and Council in relation to a Liability Order, and the complainant has provided some information that relates to this. However this matter falls outside the Commissioner's jurisdiction.

Right of appeal

20. 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

21. 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.
22. 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
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Wycliffe House
Water Lane
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Cheshire
SK9 5AF