

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 29 July 2024

Public Authority: Northumberland County Council
Address: County Hall
Morpeth
Northumberland
NE61 2EF

Decision (including any steps ordered)

1. The complainant requested information from Northumberland County Council ("the Council") relating to the Council's contracting of Ascendant Solutions Ltd to assist with the roll out of the Council Tax Energy Rebate Scheme. The Council's position is that it has disclosed all of the information it holds within the scope of the request. However, the complainant disputes this.
2. The Commissioner's decision is that, on the balance of probabilities, the Council does not hold any further information within the scope of the request.
3. The Commissioner does not require further steps.

Request and response

4. On 25 August 2022, the complainant wrote to the Council and requested information in the following terms (numbering added for ease of reference):

"I wish to request information on what checks Ascendant Solutions were asked to carry out by NCC as part of the Council Tax Energy Rebate Scheme. This is a FOI request so I'm asking for details on the list of checks and data sharing carried out rather than specific information relating to my own data. Am assuming that as the data controller, NCC authorised Ascendant to carry out/share and process a number of checks so this would

be incorporated into some sort of document/agreement so there would be clear instructions for the data processor.

Please include the following for each check:

1. Name of check - e.g bank check, ID check, fraud check, CCJ check, etc (I can see no. of checks on my record but appreciate that the number may vary from person to person).
 2. Organisation check was made with - Actual name of organisation so where counter-fraud agencies are mentioned, please list each one. Where there are matching data (SHARE) records, please confirm if you have asked Ascendant Solutions to share the data with other organisations, local authorities, etc to complete their checks.
 3. What data items were shared - e.g First Name, IP address, bank details, etc
 4. The purpose of sharing data/lawful basis - assuming some of these will be for fraud and bank ID checks. For the CCJ check that you asked them to carry out, please supply the section of guidance received from the Government advising that these are required to administer the scheme. Where there has been no fraud detected, please supply the purpose of sharing data and bank details to agencies involved in counter-fraud. Please include where there has been a transfer of data from one data controller (NCC) to another data controller.
 5. If a data/information sharing agreement exists - (yes or no)"
5. The Council responded on 11 October 2022 and provided some information falling within the scope of the request.
 6. The complainant requested an internal review on 9 November 2022, stating that they believed the Council held further information falling within the scope of the request.
 7. Following an internal review the Council wrote to the complainant on 8 September 2023. It stated that it had disclosed all of the information it holds falling within the scope of the request.

Reasons for decision

Section 1 – General right of access to information

8. Section 1(1) of FOIA requires that any person making a request for information to a public authority must be informed in writing by the public authority whether it holds information relevant to the request, and if so, to have that information communicated to them. This is subject to any exclusions or exemptions that may apply.
9. 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 further information which falls within the scope of the request (or was held at the time of the request). For clarity, the Commissioner is not expected to prove categorically whether the information is held.
10. The complainant believes that the Council holds further information within the scope of their request. In their complaint to the Commissioner the complainant argued that the Council had said that they held some information but then it had changed its position. The complainant also argued that they were informed by the council that the delay in responding to the request was due to the it collating the information in scope.
11. It also appears that the complainant believes the Council is obliged to hold further information within the scope of the request, beyond that which it has disclosed. This notice considers only whether, on the balance of probabilities, the Council has disclosed all of the information it actually holds. It is not within the scope of this investigation to consider whether the Council should hold additional information.
12. During the course of his investigation the Commissioner asked the Council to provide details of the searches and staff consultations that it had carried out to identify information falling within the scope of the request, and to explain why these searches and consultations would have been likely to identify all of the information held falling within the scope of the request.
13. The Council said that :

"Full searches both within the Revenues and Benefits team as well as the Information Governance team were conducted, included in the guidance documents, notes, internal folders and sharepoint

sites. All information the Council held regarding the FOI was provided as part of the FOI response.

The Council answered all of [the complainant]'s questions regarding the checks carried out, supplied [the complainant] with the contract, DPIA and additional guidance provided by the government for this scheme. As this was a live scheme at the time, the Revenues and Benefits department had the relevant information to hand as they were working closely with Ascendant Solutions and members of the public to answer any queries.

The only information the Council outlines as "not holding" is a document titled "Data Processor Agreement" as the information from this agreement is covered as part of the agreement between NCC and Ascendant Solutions which was provided as part of the FOI response, there was not a separate DPA document. There is not a separate document, as requested by [the complainant]."

14. The Council explained that unfortunately, it does not have a record of the exact search terms used. This is due to the time that has elapsed since this request was made and the fact that the Council has also changed its FOI case management system since that point. However, the Council said that it is confident that all relevant information was identified. It stated that the information governance team worked closely with the Revenues and Benefits team to ensure that thorough searches of their systems were carried out and officers with detailed knowledge of the scheme were involved in the information gathering process to ensure that all information was included.
15. In their complaint to the Commissioner, the complainant argued that the council had previously said that it held some information, but then it had subsequently changed its position. The Council provided the following information about what it considers to be a miscommunication about how some of the requested information is held:

"I believe [the complainant]'s concern lies in the fact that the Council confirmed that it held the information she requested, but then confirmed that it did not hold the Data Processor Agreement with Ascendant. This is on the basis that whilst the Council did not have a document titled "Data Processor Agreement", it did have the details of what would be contained within that agreement, in the overarching contract between NCC and Ascendant Solutions, which was provided to [the complainant] as part of the FOI response. It is not that the information itself was not held, it was that it was in another format than the document specified by [the complainant]."

16. Despite no record of the specific search terms being available, the Commissioner is satisfied, from the information provided by the Council, that appropriate searches and staff consultations were carried out that were designed to identify all of the information within the scope of the request.
17. He also considers the Council has adequately explained its apparent change in position as to what information it held.
18. The Commissioner's decision is therefore that, on the balance of probabilities, the Council does not hold any further information within the scope of the request.

Right of appeal

19. 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

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

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