

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 13 February 2012

Public Authority: North East Lincolnshire Council

Address: Municipal Offices
Town Hall Square
Grimsby
South Humberside
DN31 1HU

Decision (including any steps ordered)

1. The complainant has requested information relating to council tax summons costs. North East Lincolnshire Council (NELC) provided explanations to the complainant in response to his requests, but the complainant believed that it held further information that was not disclosed.
2. The Commissioner's decision is that North East Lincolnshire Council (NELC) has complied with the Freedom of Information Act 2000 (the FOIA) in this case.
3. The Commissioner does not therefore require NELC to take any further steps to ensure compliance with the legislation.

Request and response

4. On 02 May 2011 the complainant wrote to NELC and requested information in the following terms:

"Dear North East Lincolnshire Council

Can you provide me with a copy of the breakdown as supplied to the Magistrate's Court to support your latest request for a Council Tax Summons fee increase of almost 120%, which takes the previous cost of £32 to the current £70?

Can justification be given to why, in a Council document listing proposed savings, i.e. "Increase summons cost" – projected savings of £188,000 for each of the following 4 years is forecasted when such fees are to cover Council Tax recovery, not constitute savings by way of income generation?"

5. NELC responded on 10 May 2011 and stated:

"There has not been a 'breakdown' supplied to the Magistrates Court so we cannot supply you with a copy of this. The Magistrates Court were informed by letter of our intention to increase summons costs (there are no longer costs for a liability order).

The costs raised are to cover the cost of Council Tax collection and recovery. This includes the technological systems in place and employment of staff. Costs collected also cover monies paid to Her Majesty's Court Service for the use of their facilities. The monies raised from costs are not greater than the cost of the service. The increase in summons costs does not represent 'income generation' but a saving that can be made in the cost of the delivery of the service, that would otherwise ultimately be passed on to the Council Tax payers of North East Lincolnshire."

6. Following an internal review NELC wrote to the complainant on 26 May 2011, stating:

"We refer you to the Council Tax Administration and Enforcement regulations 1992, which state that the Council may add costs reasonably incurred by the authority in connection with the application. The Council Tax Administration & Enforcement regulations do not require the Council to justify the amount charged to each individual, only that the costs have been reasonably incurred by the authority in connection with the application up to the time of payment or tender. The annual budget for all activity associated with recovery of Council Tax and Business rates amounts to approximately £1.1 million.

The costs collected cover the charge made by the Magistrates Court as well as other costs incurred by the authority. If you have any questions regarding the legality of the court process you should direct them to HMCS."

Scope of the case

7. The complainant contacted the Information Commissioner to complain about the way his request for information had been handled. Specifically the complainant was concerned that NELC held more detailed

information falling within the scope of the request and that it should have provided this.

Reasons for decision

8. Section 1 of the FOIA states that:

"any person making a request for information to a public authority is entitled—

(a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and

(b) if that is the case, to have that information communicated to him."

9. In determining whether a public authority does hold any relevant information the Information Commissioner applies the civil standard of the balance of probabilities.

10. In deciding where the balance lies, the Information Commissioner considers the scope, quality, thoroughness and results of the searches carried out by the public authority as well as any other reasons offered by the public authority to explain why the information is not held. The Information Commissioner also considers any evidence that further information may be held, including whether it is inherently unlikely that the information so far located represents the total information held.

11. Therefore Information Commissioner looks at both;

- (i) the scope, quality, thoroughness and results of the searches; and
- (ii) other explanations offered as to why the information is not held.

12. The Information Commissioner contacted NELC on 8 December 2011 to enquire about the handling of the information request. NELC responded on 20 December 2011. It did not provide a detailed explanation of the searches it carried out for the requested information.

13. NELC did however explain why it did not hold more detailed information falling within the scope of the request and stated that this explanation could be shared with the complainant if necessary.

14. NELC explained that it has not supplied the Magistrates Court with a breakdown of the increased summons costs. NELC says it does not hold a breakdown for the calculation of the £70.00 fee, as it was based

on comparisons with the fees charged by neighbouring authorities (including Hull City Council and East Riding of Yorkshire Council). NELC says the figure of £70 was then compared against national averages, and as previously identified checked to ensure that the monies raised from costs would not be greater than the cost of the service.

15. NELC also explained

"The costs raised are to cover the cost of Council Tax collection and recovery. This includes the technological systems in place and employment of staff. Costs collected also cover monies paid to Her Majesty's Court Service for the use of their facilities. The monies raised from costs are not greater than the cost of the service. The increase in summons costs does not represent 'income generation' but a saving that can be made in the cost of the delivery of the service, that would otherwise ultimately be passed on to the Council Tax payers of North East Lincolnshire...

...As stated the costs raised from the increased Summons costs are to cover the cost of recovering Council Tax, and do not represent 'income generation' but a saving that can be made in the cost of the delivery of the service for the benefit of all Council Tax payers of North East Lincolnshire."

16. The Information Commissioner considers that, given the above explanation as to why no further information is held, NELC has, on the balance of probabilities provided to the complainant all of the information it holds that falls within the scope of the his information request. The Information Commissioner also considers there is no business need for NELC to hold information in the detail and context requested and that NELC has explained why it does not hold more information falling within the scope of the request.

17. The Information Commissioner's decision is therefore that NELC has fulfilled its obligations under 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: 0116 249 4253

Email: informationtribunal@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

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

Jon Manners
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Wycliffe House
Water Lane
Wilmslow
Cheshire
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