

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 11 October 2022

Public Authority: Tunbridge Wells Borough Council

Address: Town Hall
Royal Tunbridge Wells
Kent
TN1 1RS

Decision (including any steps ordered)

1. The complainant requested information about the solicitors instructed by the Tunbridge Wells Borough Council ("the Council") in relation to statutory demand and bankruptcy petitions. The Council disclosed information relevant to the request and has advised it does not hold any further recorded information within scope of the request.
2. The Commissioner's decision is as follows:
 - On the balance of probabilities, the Council holds no further recorded information relevant to the complainant's request and has complied with section 1(1) of FOIA.
3. The Commissioner therefore does not require the Council to take any corrective steps.

Request and response

4. On 23 November 2021, the complainant wrote to the Council and requested information in the following terms:
 - "1. Please provide the name of the solicitor instructed by the Council to issue a statutory demand and the name and contact details of the firm and status within the firm and their grade.

The name of the company and company house number if instructed through a company.

2. Please provide the same details for a creditor's bankruptcy petition.
3. Confirmation that those the Council instruct are authorised to carry out debt and bankruptcy work as listed on the SRA and The Law Society registers."
5. The Council responded to the request on 20 December 2021. The Council disclosed information relevant to question 1 of the request, in particular, the name of the firm of solicitors instructed for bankruptcy work. It also advised the complainant that it does not hold recorded information within scope of questions 2 and 3 of the request. Following an exchange of correspondence with the complainant, the Council later provided a weblink to the solicitors' website which it suggested, contained the regulatory information requested.
6. Following an internal review, the Council wrote to the complainant on 4 February 2022 and upheld its original decision. It said that the information provided by the Council satisfied its disclosure obligations. It provided links to additional websites pertaining to the solicitors firm's authority to act in matters relating to debt recovery and bankruptcy proceedings including statutory demand and creditor bankruptcy petitions.

Scope of the case

7. The complainant contacted the Commissioner on 24 January 2022 to complain about the way their request for information had been handled.
8. The Commissioner has considered whether, on the balance of probabilities, the Council holds recorded information within scope of the complainant's request and whether it has complied with section 1(1) of FOIA.

Reasons for decision

9. Under section 1(1) of FOIA anyone who requests information from a public authority is entitled under subsection (a) to be told if the authority holds the information and, under subsection (b), to have the information communicated to them if it is held and is not exempt information.
10. In scenarios such as this, where there is some dispute between the public authority and the complainant about the amount of information

that may be held, the Commissioner, following the lead of a number of First-tier Tribunal decisions, applies the civil standard of the balance of probabilities.

11. For clarity, the Commissioner is not expected to prove categorically whether the information is held, he is only required to make a judgement on whether the information is held on the civil standard of the balance of probabilities. In doing so, he will consider any reasons why it is inherently likely or unlikely that the information is or is not held.
12. The Council released information in relation to part 1 of the request but stated that the name of the individual solicitor would depend on the individual case.
13. The Council informed the complainant that having been advised of the name of the solicitors firm instructed by the Council, the rest of the information relating to the firm's legitimacy is in the public domain and reasonably accessible. However, it provided weblinks to external organisations such as the Solicitors Regulation Authority where the information sought may be found. The Commissioner sees no reason to doubt the Council's explanation that it did not hold the information given it provided external weblinks where the information may be held.
14. Having considered all the circumstances, the Commissioner therefore accepts the Council's position that it does not hold recorded information that would address the complainant's request for information in its entirety. He is satisfied that, on the balance of probabilities, and given the nature of the information requested, the Council has provided all the information it holds that falls within the scope of the request. He has, therefore, determined that it has complied with section 1(1) of FOIA.

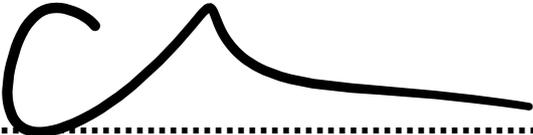
Right of appeal

15. 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

16. 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.
17. 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

Claire Churchill
Team Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF