

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 12 April 2022

Public Authority: Wealden District Council
Address: Council Offices
Vicarage Lane
Hailsham
East Sussex BN27 1AX

Decision (including any steps ordered)

1. The complainant requested from Wealden District Council ("the Council") information relating to 'Exceptional Hardship Payment' applications. The Council disclosed some of the requested information but stated that the remainder was not held.
2. The Commissioner's decision is that the Council has disclosed all held information.
3. The Commissioner does not require the Council to take any steps.

Request and response

4. On 15 June 2020, the complainant wrote to the Council and requested information in the following terms:

I am seeking documents that I consider are held by the WDC that would allow me to complete the table shown below [not included here].

1. *The number of EHP applications received by the WDC between the start year of the policy and the last full year of 2020-21*
2. *The number of EHP awards made by the WDC between the start year of the policy and the last full year of 2020-21*

- 3. The number of EHP applications refused by the WDC between the start year of the policy and the last full year of 2020-21*
 - 4. The total amount paid to applicants between the start year of the policy and the last full year of 2020-21*
 - 5. The annual budget the WDC set aside for EHP awards between the start year of the policy and the last full year of 2020-21*
 - 6. The number of times where an award from the EHP fund was refused but the WDC used its powers under S13a of the Local Government Finance Act 1992 and under Section 1 of the Localism Act 2011 to reduce an applicant's CT liability to ZERO*
5. The Council responded on 12 August 2020. It disclosed information by partly filling in a table provided by the complainant as part of the request.
 6. On 5 October 2020, the complainant asked the Council to undertake an internal review, on the basis that it had not filled in the entirety of the table.
 7. Following an internal review, the Council wrote to the complainant on 15 January 2021. It disclosed further information (by filling in the relevant parts of the table) and clarified that some of the requested information was not held and had therefore not been entered into the table (namely specific information for the financial years 2013/14, 2014/15, 2015/16, and 2020-2021).

Scope of the case

8. The complainant contacted the Commissioner on 7 February 2021 to complain about the way his request for information had been handled, and specifically that the Council held the requested information.
9. The scope of this case and of the following analysis is whether the Council is likely to hold the requested information.

Reasons for decision

Section 1 – General right of access to information

10. Section 1(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.

11. Section 1(1) 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.
12. In scenarios where there is some dispute between the amount of information located 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 (Information Rights) decisions, applies the civil standard of the balance of probabilities.
13. 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 (or was held at the time of the request).

The Commissioner's investigation

14. The Commissioner asked the Council to explain what steps it had taken to verify that no information was held for the 2013/14, 2014/15, and 2015/16 financial years.
15. The Council explained that no records were known to be held, as Exceptional Hardship Payments only came to relevance from 2016 onwards. This is because, prior to 2016, relevant claimants of Council Tax Support (formerly known as Council Tax Benefit) qualified for 100% of financial support for the cost of it. However, from 2016, claimants were limited to a maximum of 80%, and as such, the Council started to receive claims for Exceptional Hardship Payments to cover the remaining 20%.
16. The Commissioner also asked the Council to explain why no information had been provided for the 2020/21 financial year.
17. The Council explained that the request had been made at the start of the financial year (in June 2020), and that, as the request sought information for 'full years', such information was therefore not yet held for the 2020/21 financial year.

The Commissioner's conclusion

18. The Commissioner has considered the Council's position, in conjunction with the request.
19. The Council has stated that it does not hold some of the requested information and has provided a clear explanation to the Commissioner as to why it should not be expected to. There is no evidence available to the Commissioner that suggests the Council's position is incorrect.
20. On this basis the Commissioner has concluded that, on the balance of probabilities, no further information is held besides that disclosed.

Right of appeal

21. 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

22. 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.
23. 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

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