

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 26 January 2017

Public Authority: Haringey Council
Address: River Park House
225 High Road
Wood Green
London
N22 8HQ

Decision (including any steps ordered)

1. The complainant has requested information from Haringey Council ("the Council") relating to the recovery measures referred to in a report.
2. The Commissioner's decision is that the Council does not hold the requested information.
3. The Commissioner requires the Council to take no steps.

Request and response

4. On 28 June 2016, the complainant wrote to the Council and requested information in the following terms:

"The following is contained in paragraph 43 of the judgment in Nicolson v Grant Thornton UK LLP [2016] EWHC 710 (Admin) (25 February 2016), see link to full judgment:

<http://www.bailii.org/ew/cases/EWHC/Admi...>

'6.11.1. The review panel found that other councils had obtained agreement to raise court costs recharged to non-payers by a significant level. This charge is intended to act as a deterrent to both late and non-payers and enables councils to fund improved recovery measures. The review panel concluded that the benefits and local taxation service could improve performance by ensuring that it agrees the highest possible level of court costs to be charged to non-payers.'

The above implies that if the council were to raise court costs recharged to late and non-payers of council tax by a significant level it would enable the council to fund improved recovery measures.

Q. I would like disclosing whatever information the council holds which would enable a person interested to determine what recovery measures were referred to regarding those improvements which the revenues services intended to fund".

5. The Council responded on 26 July 2016 and explained:

"The report to which you refer came from The Audit and Finance Scrutiny Panel and was from April 2004. The panel was decommissioned on 25 May 2011. Therefore, the information you have requested is not held".

6. Following an internal review, the Council maintained its position that the requested information was not held.

Scope of the case

7. The complainant contacted the Commissioner 29 August 2016 to complain about the way his request for information had been handled.
8. The complainant argued that the requested information would be held.
9. The Commissioner has had to consider whether the requested information is held.

Reasons for decision

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. 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 ICO, following the lead of

a number of Information Tribunal decisions, applies the civil standard of the balance of probabilities.

12. In other words, in order to determine such complaints the ICO must decide whether on the balance of probabilities a public authority holds any information which falls within the scope of the request (or was held at the time of the request).
13. The Council explained that the report detailed in the request was written by Scrutiny Officers for the Audit Panel in 2004. The Council confirmed that all the Officers who were involved in writing the report have left the Council and all their personal emails and computer files have been deleted.
14. The Council confirmed that the Scrutiny Officers carried out a search of their hard drive where they save electronic copies of minutes of meetings, draft reports and similar documents. The only information that was held was a copy of the finalised report.
15. The Council confirmed that their retention policy is for six years and they have no record of when the notes, minutes of meetings and other information that would have been used to write the report were deleted/destroyed.
16. The Council explained:

"The Scrutiny Officer has commented on the requested information stating that he would expect the reference is for 'generic' recovery measures e.g. recovery measures that were in place in 2004. It is unlikely that we would have held any information specifying what the 'intended measures' were".

The Commissioner's view

17. Based on the submissions provided by the Council and bearing in mind that the information requested dates back to a report published in 2004 and the Council's retention policy is six years, the Commissioner is satisfied on the balance of probabilities that the requested information is not held.

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: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

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

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