

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 19 May 2026

Public Authority: North Tyneside Council
Address: Quadrant
The Silverlink North
Cobalt Business Park
North Tyneside
NE27 0BY

Decision (including any steps ordered)

1. The complainant requested information from North Tyneside Council (the Council) relating to Councillors who have received a court summons for council tax arrears. The Council refused the request citing section 40(2) (personal data) of the FOIA.
2. The Commissioner's decision is that the Council correctly applied section 40(2) to the name of one councillor, but it is not entitled to rely on section 40(2) to refuse to provide the names of the two other councillors.
3. The Commissioner requires the Council to take the following step to ensure compliance with the legislation.
 - Disclose the names of councillors A and D.
4. The Council must take these steps within 30 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Act and may be dealt with as a contempt of court.

Request and response

5. On 19 May 2025 the complainant wrote to the Council and requested information in the following terms:

"In your pre-election address you stated that you would ensure that that NTC would serve the local community and avoid partisan politics, also "I will maintain transparency about our finances."

I am contacting you about a concerning article recently in the Newcastle Evening Chronicle.

The article highlighted that three North Tyneside Councillors had been issued court summons over non-payment of Council Tax. One councillor was summoned on three occasions alone.

NTC has refused to name the three councillors Sighting [sic] section 40(2) of the Freedom of information act. As was noted in the article this goes against the Judgement of Judge Kate Markus at Upper Tribunal of 10th March 2016. I would draw your attention in particular to paragraphs 40 and 41 of her judgement.

'40. But, in the case of a councillor, it is not only a private matter. A councillor is a public official with public responsibilities to which non-payment of council tax is directly and significantly relevant. A number of specific features of this were advanced in submissions to the First-tier Tribunal. In particular, section 106 of the Local Government Finance Act 1992 bars a councillor from voting on the Council's budget if he or she has an outstanding council tax debt of over two months. If a councillor is present at any meeting at which relevant matters are discussed, he or she must disclose that section 106 applies and may not vote. Failure to comply is a criminal offence. Thus council tax default strikes at the heart of the performance of a councillor's functions. It is evident that setting the council's budget is one of the most important roles undertaken by councillors. The loss of one vote could make a fundamental difference to the outcome. This adds a significant public dimension to the non-payment of council tax. The very fact that Parliament has legislated in this way reflects the connection between non-payment and the councillor's public functions. Moreover, as the Commissioner observed in his decision notice, recent failure to pay council tax is likely to impact on public perceptions and confidence in a councillor as a public figure.

41. These factors are of critical relevance to expectation. As the Commissioner had observed, those who have taken public office should expect to be subject to a higher degree of scrutiny and that information which impinges on their public office might be disclosed. More specifically, unless the local electorate know the identity of a councillor to whom section 106 applies, they cannot discover that that councillor is failing to fulfil his functions. Nor can they know that the process of declarations under section 106 is being adhered to. In addition the electorate may wish to know whether they can trust a councillor properly to discharge his functions if he stands for office again.

42. Finally, in his submissions to the First-tier Tribunal the Appellant submitted that, even if there were powerful personal mitigating circumstances explaining non-payment by an individual, it did not necessarily follow that the individual could expect not to be named rather than to be provided with a fair opportunity to explain his circumstances”.

Given that this judgement is now ten years old why is NTC not releasing the information about these councillors?

It would appear that by not revealing the names of the councillors who have had summons for non-payment of council tax that transparency and commitment to the people of North Tyneside is already evaporating.

Do the right thing and release the information about the relevant councillors now rather than wasting time, money and goodwill delaying what will inevitably have to be disclosed”.

6. The Council responded on 24 June 2025 stating that:

“Having considered available ICO decision notices on such matters and circumstances explained to the Authority by the councillors concerned, it is considered that disclosure of the information requested may have a disproportionate adverse effect on the councillors’ rights and freedoms, which the Authority must consider.

Having considered the circumstances, the Authority is of the view that the names of the councillors are not disclosed”.

The Council did not specify what exemption(s) under the FOIA it was relying on as the basis for its refusal.

7. On 26 July 2025 the complainant requested an internal review of the refusal to provide the information.

8. The Council provided the outcome of its internal review on 30 July 2025 and it upheld its decision that the information requested was exempt from disclosure. Again, the Council did not cite any specific exemption on which it was relying. However, the Council referred to an internal review response it had undertaken in respect of a different request for similar information where it had cited section 40(2) of the FOIA to refuse to provide information relating to councillors in council tax arrears.

Scope of the case

9. The complainant contacted the Commissioner on 1 May 2025 to complain about the way their request for information had been handled.
10. The scope of the Commissioner's investigation is to determine whether the Council correctly withheld the names of councillors who had received a court summons for council tax arrears.

Reasons for decision

Section 40(2) – third party personal data

11. Section 40(2) provides an exemption for information that is the personal data of an individual other than the requester and where the disclosure of that personal data would be in breach of any of the data protection principles.
12. Section 3(2) of the Data Protection Act 2018 defines personal data as:
"any information relating to an identified or identifiable living individual."
13. The two main elements of personal data are that the information must relate to a living person and that the person must be identifiable.
14. In this case, the Council has withheld the names of three councillors who had received a court summons for non payment of council tax. It is clear to the Commissioner that disclosing this information would reveal the personal data of the councillors concerned, namely their identity and the fact that they had received a court summons. The Commissioner is therefore satisfied that the information both relates to, and identifies, the individuals concerned.
15. The next step is to consider whether disclosure of the names of the councillors concerned would be in breach of any of the data protection principles. The Commissioner has focussed here on principle (a).
16. The next step is to consider whether disclosure of this personal data would be in breach of any of the data protection principles. The Commissioner has focussed here on principle (a), which states:
"Personal data shall be processed lawfully, fairly and in a transparent manner in relation to the data subject."
17. In the case of a FOIA request, the personal data is processed when it is disclosed in response to the request. This means that the information can only be disclosed if to do so would be lawful, fair and transparent.

18. When considering whether the disclosure of personal information would be lawful, the Commissioner must consider whether there is a legitimate interest in disclosing the information, whether disclosure of the information is necessary, and whether these interests override the rights and freedoms of the individuals whose personal information it is.
19. The Commissioner is of the view that there is a legitimate and strong interest in the public knowing when councillors have failed to pay council tax and who those councillors are. This was considered in the Upper Tribunal (the UT) decision *DH v Information Commissioner and Bolton Council*¹, which found that the name of a councillor who had failed to pay council tax should be disclosed. The view of the UT was that there is a legitimate interest in the public being aware of this information as councillors are responsible for the expenditure of public money and the administration of council tax; if a councillor is in arrears of more than two months, they cannot vote on matters that concern council tax.
20. In the circumstances of this case, the Commissioner notes that the request doesn't seek the identities of those councillors in arrears, but specifically those who have received a court summons due to the extent of those arrears.
21. The Commissioner therefore considers that the complainant is pursuing a legitimate interest and that disclosure of the requested information is necessary to meet that interest.
22. The UT decision referred to above stated that:

"There may be exceptional cases in which the personal circumstances of a councillor are so compelling that a councillor should be protected from such exposure".
23. Given the comments set out in the UT decision, the Commissioner accepts that there will be circumstances where a public authority will be entitled to withhold the name of a councillor who has failed to pay council tax.
24. The media article cited in the complainant's request was the result of a previous FOIA request made seeking various information relating to non payment of council tax by councillors. The Council referred to its decision relating to that request in its internal review of the handling of the request which is the subject of this notice. Part 4 of that request was for the names of councillors who had received a court summons for non

¹ <https://www.gov.uk/administrative-appeals-tribunal-decisions/dh-v-1-information-commissioner-2-bolton-council-2016-ukut-139-aac>

payment of council tax. Although the Council withheld the names of the councillors concerned. It confirmed that 3 councillors had received court summons, provided the amounts and the dates of the summons but anonymised the names of the councillors concerned as councillor A, councillor C and councillor D. The Council did, however, confirm that all necessary checks were undertaken before the relevant Council meeting that any councillors with council tax arrears of 2 months or greater did not attend without making the necessary declarations and that no councillors with this level of arrears participated in the vote on its budget for the following financial year.

25. In its response to the Commissioner concerning the request which is the subject of this notice the Council explained that it considered the personal circumstance of the councillors concerned are such that they should be protected from disclosure.
26. The Council provided a summary of these personal circumstances to the Commissioner. In some cases, the Council also provided the Commissioner with representations from the councillors concerned about their position and the impact that disclosure of their identity would have on them. The Commissioner has not included these explanations within this notice as to do so would, in itself, reveal personal data about the councillors concerned.
27. The Commissioner accepts that, generally, there is a significant legitimate interest in disclosure of the information relating to councillors who are in council tax arrears. As such, he considers that the councillors in this case would have had an expectation that such information about council tax arrears might be made public.
28. Having considered the Council's representations in respect of the exceptional personal circumstances involved in this case, the Commissioner has determined that there is insufficient legitimate interest to outweigh the harm and distress that disclosure would cause to one of the councillors concerned – councillor C. The Commissioner therefore accepts that the Council correctly relied on section 40(2) of the FOIA to withhold councillor C's name.
29. In respect of the other two councillors (councillors A and D) the Commissioner considers that the Council has been unable to provide any compelling arguments to demonstrate that the personal circumstances of the councillors would be fairly classed as 'exceptional'. Rather, the Commissioner considers that the circumstances of these two councillors are reasonably common and could be experienced by many people.
30. With regard to the rights and freedoms of the individuals, the UT case cited above determined that Councillors should expect to be scrutinised

and be accountable for their actions in so far as they are relevant to their public office.

31. It is also relevant for the Commissioner to note, as in paragraph 20 of this notice that the request in this case specifically relates to councillors who have received a court summons due to the extent of arrears. The Commissioner perceives that there should be an even greater expectation of scrutiny in such a context.
32. Having considered the UT's comments, and the circumstances of this case, the Commissioner is of the view that the legitimate interest in disclosure of the names of councillors A and D outweighs the rights and freedoms of the individuals in this instance.
33. Therefore, the Commissioner's decision is that the Council is not entitled to rely on section 40(2) of the FOIA to refuse to provide the names of councillors A and D. The Commissioner has ordered disclosure of this information at paragraph 3 of this notice.

Right of appeal

34. 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)
General Regulatory Chamber
PO Box 11230
Leicester
LE1 8FQ

Tel: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

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

35. 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.
36. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Joanne Edwards
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