

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 24 March 2025

**Public Authority:** Basingstoke and Deane Borough Council  
**Address:** Civic Offices  
London Road  
Basingstoke  
RG21 4AH

#### **Decision (including any steps ordered)**

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1. The complainant submitted a ten part request for information held by Basingstoke and Deane Borough Council (the council) about liability order applications it has submitted to the courts. The complainant is not satisfied with the council's handling of part 8, and part 10, of their request.
2. The Commissioner has decided that, on the balance of probabilities, the council does not hold information falling within scope of part 8 of the complainant's request.
3. With regard to part 10 of the request, whilst the Commissioner has decided that the information originally provided by the council was not what the complainant had asked for, he is satisfied that it has now disclosed the correct information. However, as the council failed to provide this information to the complainant within the statutory 20 working days, the Commissioner has found a breach of section 10(1) (time for compliance) of FOIA.
4. The Commissioner does not require further steps to be taken by the council as a result of this decision notice.

## Request and response

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5. On 29 August 2024, the complainant submitted a ten part request to the council. This was for information held relating to applications the council has submitted to the courts for the purpose of obtaining liability orders in relation to non payment of council tax and non domestic rates. The complainant has only raised concerns about the council's handling of part 8, and part 10, of their request, which asked for the following information:  
  
Part 8: "What was the name(s) of the JP/Magistrate/DJ who has granted all orders obtained between 2018 and 2024?"  
  
Part 10: "How much does it cost the council to produce a liability order?"
6. On 5 September 2024, the council provided its response, releasing some information to the complainant. The council said that it did not hold information relevant to part 8 of the request, and in response to part 10 of the request, it confirmed the current cost of a liability order to be £60.
7. On 6 September 2024, the complainant contacted the council raising concerns about its response to part 8 and part 10 of their request.
8. The complainant advised that they had evidence which confirms that the council does hold information that falls within scope of part 8 of their request.
9. With regard to part 10 of their request, the complainant said that the information provided by the council was not what they had asked for. The complainant explained that they had asked for the actual cost to the council for producing each liability order, and not the standard £60 cost it claims. The complainant went on to say that they had "evidence to show that the actual cost is around 75p per order".
10. On 23 September 2024, the council provided its internal review response.
11. With regard to part 8 of the complainant's request, the council maintained its previous position that it does not hold any relevant information. The council explained that the majority of liability orders that it does hold only contain the signature of the magistrate or district judge who authorised the liability order, and not their full names. The council confirmed that it was not able to determine with any certainty the names of any judge based on a signature.

12. The council also confirmed to the complainant that it had checked records dating back to 2018, and that it had not found any information which would allow for the identification of the magistrate or district judge who authorised the liability orders that had been granted.
13. With regard to part 10 of the request, the council said that it considered the figure of £60 provided in its original response to be correct, stating that this is the charge that has been agreed with the courts for each liability order.

## **Scope of the case**

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14. The complainant raised concerns with the Commissioner about the council's handling of part 8 and part 10 of their request. They said that they believe that the council does hold the information described in part 8 of their request, and that it failed to provide the actual cost of producing a liability order in response to part 10 of their request.
15. During the Commissioner's investigation, the council confirmed that its records show the average cost of producing a liability order is £63.47. The council agreed to provide this information to the complainant, together with a breakdown of the cost of each work item used to calculate this average cost.
16. The Commissioner considers that the scope of his investigation is as follows:
  - To determine whether, on the balance of probabilities, the council holds information falling within scope of part 8 of the complainant's request.
  - To determine whether the council has now provided the information held that provides an answer to part 10 of the request.

## **Reasons for decision**

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### **Section 1 – general right of access to information**

17. [Section 1\(1\)](#) of FOIA provides 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 them.
18. In cases where a dispute arises over the extent of the recorded information that was held by a public authority at the time of a request, the Commissioner, following the lead of a number of First-tier Tribunal decisions, applies the civil standard of the balance of probabilities. In essence, the Commissioner will determine whether it is likely, or unlikely, that the public authority holds information relevant to the complainant's request.
19. The Commissioner invited the complainant to provide the evidence they said they held which supports their claim that the council holds information relevant to part 8 of their request, and that the cost to the council of producing a liability order is 75p. However, the Commissioner has not received this evidence from the complainant, and will therefore make a decision based only on the information that has been made available to him by both parties.

Part 8 of the request

20. The complainant has questioned the council's claim that it holds liability orders that contain the signature of the magistrate who authorised these orders. The complainant has said that the rules state that judges or magistrates do not sign liability orders.
21. The complainant also says that the council must hold a record of the name of the magistrate or district judge who has granted each liability order for the time period specified in their request. The complainant says that they hold evidence which confirms the name of the judge present at two separate court hearings, and that the council should also hold this information. The complainant has also argued that the council representative who attends the hearings would record the name of the judge in attendance, and therefore the council must hold the information described in part 8 of their request.
22. The council has said that it maintains its position that it does not hold information relevant to part 8 of the request.
23. The council has confirmed to the Commissioner that there is nothing within statute which requires an individual liability order document to exist. It has explained that a liability order is not a physical document and that, as is the case with any other court order, liability orders are made when announced by the magistrate or judge in court.
24. The council has explained that on the day of a hearing, a copy of the court list, which details the name and address of every person that the council is requesting a liability order for, is sent to the court and a

representative from the council attends the hearing. The council representative gives evidence and makes a request for liability orders to be granted as part of a bulk application.

25. The council has said that it is not informed in advance of the names of the bench magistrate or the judge. It has also said that its representative at the hearing does not record the names of the judge or magistrate in attendance.
26. The council has provided the Commissioner with examples of the documents it holds that are produced by the court when council tax and non domestic rate liability orders are granted. One example document, which is one page, has the title, "Liability Orders in respect of Council Tax Regulation 34 of the Council Tax (Administration and Enforcement) Regulations 1992 Basingstoke Magistrates Court". It is dated 22 November 2022, and confirms that "668 Liability Orders are granted" and is signed by the magistrate.
27. A separate example one page document provided by the council is also dated 22 November 2022, and relates to liability orders in respect of non-domestic rates. This document confirms "23 Liability Orders are granted", and is also signed by the magistrate.
28. In both documents referred to above, the signature of the magistrate is indecipherable and there is no other information (such as a printed name) contained within the documents which allows them to be identified.
29. The council has also provided the Commissioner with an example copy of the letter which it sends to individuals, once a liability order has been granted by the court. This letter confirms that the liability order has been granted, the date that this occurred, and what this means in terms of any outstanding payment that the individual is now required to make to the council.
30. The Commissioner accepts from the evidence provided by the council that the courts consider bulk applications made for liability orders, and that an individual liability order document does not exist. In addition, the Commissioner accepts that there is no requirement for the council to record and hold the name of any judge or magistrate that has granted liability orders.
31. Having considered the information available, the Commissioner is satisfied that, without any evidence to the contrary, on the balance of probabilities, the council does not hold information relevant to part 8 of the complainant's request.

Part 10 of the complainant's request

32. The information provided to the Commissioner by the council indicates that, in its responses to the request, it provided the complainant with the £60 cost it claims for each liability order granted by the court, rather than the cost it incurs in producing each liability order.
33. The council has now provided the complainant with the average cost to the council of producing each liability order, which is £63.47. In addition, the council has provided the complainant with a breakdown of the individual work items that are used to calculate the average cost.
34. The Commissioner is satisfied that the council has now provided the complainant with the information held that provides an accurate answer to part 10 of the request, and that it has now complied with its obligations under FOIA.

**Procedural matters**

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35. Under [Section 10\(1\)](#) of FOIA, a public authority must communicate relevant information that it holds, and that is not exempt information, promptly and within 20 working days following the date of receipt of the request for it.
36. In this case, it was only during the Commissioner's investigation that the council correctly identified, and disclosed, the information relevant to part 10 of the complainant's request. As the council failed to provide the complainant with copies of the information held relevant to part 10 of their request within 20 working days, the Commissioner has found a breach of section 10(1) of FOIA.

## Right of appeal

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37. 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](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

38. 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.
39. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

**Suzanne McKay**  
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**Information Commissioner's Office**  
**Wycliffe House**  
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