



HM Courts & Tribunals Service

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Ms Cherie Jerez

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www.justice.gov.uk

Date: 12 February 2014

Our Ref: 88157

Dear Ms Jerez,

Internal Review of Freedom of Information request.

Thank you for your email of 20 January 2014, in which you asked for an internal review into the way the department, handled your request for information under reference 87660:

'I am writing to request an internal review of Her Majesty's Courts and the Tribunals Service's handling of my FOI request 'Council Tax Liability Order hearing on August 2, 2013 – Enfield and Haringey Magistrates' Court'.

Please read the document linked to below which is in response to a request made to Haringey Borough Council (Council Tax and NNDR Summons and Liability Order costs).

I would like to know who is lying.

<https://www.whatdotheyknow.com/request/171329/response/458034/attach/3/LBH2390613%20FOI%20DP%20Complaint%20Response%20061220131%202.doc>

"The court costs of £125.00 have been in place since 01 April 2010. These were approved as reasonable costs by HM courts service, Deputy Justice's clerk (, Stephen Carroll on 23rd March 2013. As you can see from the breakdown of the cost of taking recovery action the actual cost is in excess of the £125.00 we pass on to the Council Tax payer."

Note: the date above is incorrect, 23rd March 2010 is claimed to be correct by Haringey Council.'



INVESTOR IN PEOPLE

The purpose of an Internal Review is to assess how your Freedom of Information request was handled in the first instance and to determine whether the original decision given to you was correct. This is an independent review: I was not involved in the original decision.

Internal review assessment

I have reassessed your case, examined the information provided, and the advice/information offered, and after careful consideration I have concluded that the initial response that was sent to you was compliant with the requirements of the FOIA. An explanation of my decision follows:

- Your original request was received on 30 December 2013. You were sent an acknowledgment on 30 December 2013 and a response on 17 January 2014, 11 working days later, which met the statutory 20 working days timeframe for a response.
- The response sent to you on 17 January 2014 confirmed that HMCTS does not hold the information that was requested. I have reviewed the searches conducted at Enfield and Haringey Magistrates' Court and I am content that the relevant searches were made to confirm whether the information was held. The MoJ has a Record Management policy and keeps records accordingly, to which HMCTS adhered to.
- It may be helpful if I make it clear that the FOIA does not oblige a public authority to create information to answer a request if the requested information is not held. It does not place a duty upon public authorities to answer a question unless recorded information exists. The FOIA duty is to only provide the recorded information held; it was therefore correct to advise you that we do not hold the information requested.
- The response went on to provide you with advice outside the act, in regard to the maximum level of costs the local authority *can* apply for and to explain that the *actual amount charged* is at judicial discretion in such cases. In this respect, I am satisfied that the response fulfilled the requirement of section 16 of the FOIA (advice and assistance).
- It may be helpful to further explain that the legal power to award costs rests with the Judiciary or the appropriate judicial office holder (e.g. Magistrate). Costs are applied for and considered on a case by case basis as noted in The Council Tax (Administration and Enforcement) Regulations 1992 section 34 application for liability order.
- As part of this internal review, I have spoken with Deputy Justice's clerk, Stephen Carroll in regard to the stated agreed £125 maximum costs, and he informed me that he was not DJC in 2010. He also confirmed that The DJC for LB Haringey Court in 2010 has searched and found no record of any particular document or record outlining an agreement with LB Haringey Council about the amount of costs.

This doesn't necessarily mean that there wasn't liaison, discussion and agreement about a consistent application or approach, just that there is no written agreement held by HMCTS. It might be helpful to explain that large numbers of applications are dealt with each session and, whilst the court legally considers and authorises

the costs application in each separate case, the administration of justice demands that a consistent approach is taken in similar cases.

- During the course of my investigation, I have also made contact with Haringey Borough Council who have been unable to confirm or deny the existence of a written agreement as referred to in your aforesaid request. You may therefore wish to pursue your question with them.

I hope the above explanation has helped in explaining why the MoJ does not hold information in relation to your request. In conclusion, I am satisfied that the response you received on 17 January 2014 was correct and I therefore uphold that decision.

You have the right to appeal our decision if you think it is incorrect. Details can be found in the 'How to Appeal' section attached at the end of this letter.

Disclosure Log

You can also view information that the Ministry of Justice has disclosed in response to previous Freedom of Information requests. Responses are anonymised and published on our on-line disclosure log which can be found on the MoJ website:

<https://www.gov.uk/government/organisations/ministry-of-justice/series/freedom-of-information-disclosure-log>

Yours sincerely

***Knowledge and Information Liaison Officer & Business Support
HMCTS, SW Regional Support Unit***

How to Appeal

Information Commissioner's Office

If you remain dissatisfied after an internal review decision, you have the right to apply to the Information Commissioner's Office. The Commissioner is an independent regulator who has the power to direct us to respond to your request differently, if he considers that we have handled it incorrectly.

You can contact the Information Commissioner's Office at the following address:

Information Commissioner's Office,
Wycliffe House,
Water Lane,
Wilmslow,
Cheshire
SK9 5AF

Internet address: https://www.ico.org.uk/Global/contact_us