

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 24 June 2015

Public Authority: Berwick-upon-Tweed Town Council

Address: 5 The Chandlery
Quayside
Berwick-upon-Tweed
Northumberland
TD15 1HE

Decision (including any steps ordered)

1. The complainant has made a request to Berwick Town Council ("the council") for bank statements. The council refused the request citing section 21 of the Freedom of Information Act (FOIA).
2. The Commissioner's decision is that section 21 has been correctly engaged.
3. The Commissioner does not require any steps to be taken.

Request and response

4. On 20 December 2014 the complainant wrote to the council and requested the following:

"I would like to view the bank statements for all and any bank accounts Berwick Town Council hold or have used. In the first instance, for the last 24 months and then from the start on the Town Council in 2008."

5. The council responded on 21 January 2015 and refused the request under section 21.
6. The council subsequently confirmed that it does not have an internal review process on 26 January 2015.

Scope of the case

7. The complainant contacted the Commissioner on 16 February 2015 to complain about the council's response.
8. The Commissioner considers the scope of this case is the determination of whether the council has correctly engaged section 21 in respect of held bank statements. To avoid ambiguity, this decision does not consider financial information held in other documents, which the Commissioner notes has been a point of discussion within the correspondence between the two parties.

Reasons for decision

Section 21 – Information accessible to the applicant by other means

9. Section 21 provides an exemption for information that is already reasonably accessible to the applicant. It is an absolute exemption and as such no public interest test needs to be applied.
10. The council has confirmed to the Commissioner that the complainant is an elected councillor within the council, and as such has the authority to inspect the council's bank statements as part of their elected role.
11. The complainant has likewise confirmed their elected role to the Commissioner, but has proposed that their right to inspect the bank statements (which the Commissioner understands must be undertaken on council premises) does not equate to the information being reasonably accessible.
12. In his public guidance on the application of section 21¹, the Commissioner outlines that the specific wording of the section allows a public authority to consider the 'individual circumstances' of a requester when deciding on the applicability of exemption. Should a requester therefore have an alternative mechanism by which they can access

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http://ico.org.uk/for_organisations/guidance_index/~media/documents/library/Freedom_of_Information/Detailed_specialist_guides/information-reasonably-accessible-to-the-applicant-by-other-means-sec21.pdf

information outside the terms of the FOIA, and that the information is 'reasonably accessible' through that mechanism, the exemption provided by section 21 will be engaged.

13. In the circumstances of this matter, the Commissioner understands that the complainant has the authority to inspect the requested information as part of their elected role, and that the council has asked the complainant to make an appointment to do so. As the Commissioner's guidance specifically details, information may be deemed as 'reasonably accessible' even when it is only available for inspection in a certain location. Having therefore considered these factors, the Commissioner has concluded that the information is reasonably accessible to the complainant, and that section 21 has been correctly engaged.

Right of appeal

14. 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: 0116 249 4253

Email: GRC@hmcts.gsi.gov.uk

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

15. 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.
16. 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

Andrew White
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF