

Paul Barns
request-941350-07680d33@whatdotheyknow.com

data.access@justice.gov.uk

17th February 2023

Dear Paul Barns,

Freedom of Information (FOI) Act Request no 230124015

Thank you for your request dated 24th January 2023 in which you asked for the following information:

I have read your response to the FOI request of James Orme. 16th December 2022 ref above.

Would you please clarify your reply regarding lawful court documents in particular to Council Tax Liability Orders generated by the council. Under FOI request made to HM Courts and Tribunal Service January 2014 FOI-87871 it was stated that 'No third party therefore deals or issues liability orders. A liability order is generated by software owned by the Council/Local Authority'.

You say in your letter that if in doubt to contact the court for verification, but when this document, 'the council generated council tax liability order', is presented to the courts for verification and validation the courts have no record of the document and can not verify its authenticity.

1. Is the Council Tax Liability Order generated by the council a court document?
2. You say in your reply 'But any format is necessary provided it sets out the key elements of the order clearly' What key elements did the Lord Chancellor decide were necessary on a court document?
3. You say if the document contains the right details such as, Name, Address, offence or matter of complaint. What If there is no name or address on the 'council generated council tax liability order' ?
3. You stated... 'The gold standard would be a certified extract, a copy of the court register signed by the court officer' What is the courts definition of a 'true copy' of that register, is it word for word. a 'true copy' (Definition of 'true copy' Law Dictionary: A faithful duplicate of an original document that is virtually identical and sufficient for its purposes to act as one)

The FOI Act requires public authorities to provide recorded information. Recorded information is information currently in existence in the possession of the authority. However, the FOI Act does not oblige a public authority to create information to answer a request if the requested information is not held. The duty is to only provide the recorded information actually held.

In your request, you are not asking for recorded information but are asking a series of questions about the law which would require research by a member of staff, in order to create the response. For this reason your request does not fall within the Act.

However section 16 of the FOIA requires us to give reasonable assistance to enquirers and on that basis I will answer your questions.

But, firstly, I must clarify that unfortunately the response in 2014 was not correct in saying that the liability order was generated by the local authority. The council generates a notification, not the actual order.

1. . No

2. That depends on the court document. Since the court does not generate a liability order, the Lord Chancellor has not specified any elements.

3. Since it isn't a court order, it has no bearing on the legality of the order.

3(2) Courts do not have a definition of a "true copy" and none is required. A certified extract in civil proceedings must comply with Rule 68 of the Magistrates' Courts Rules which states that "an extract from the register certified by the designated officer as a true extract, shall be admissible in any legal proceedings as evidence of the proceedings of the court entered in the register". The requirement therefore is for the order to be extracted from the register to a new document which is certified by a court officer as being an extract.

Appeal Rights

If you are not satisfied with this response you have the right to request an internal review by responding in writing to one of the addresses below within two months of the date of this response.

data.access@justice.gov.uk

Disclosure and Library Team, Ministry of Justice, 102 Petty France, Post Point 5.22, London, SW1H 9AJ

You do have the right to ask the Information Commissioner's Office (ICO) to investigate any aspect of your complaint. However, please note that the ICO is likely

to expect internal complaints procedures to have been exhausted before beginning their investigation.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Siân E. Jones', written over a horizontal line.

Siân E. Jones LL.B.
Head of Legal and Professional Services, Legal Operations