

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 31 July 2012

Public Authority: National Measurement Office

Address: Stanton Avenue
Teddington
Middlesex
TW11 0JZ

Decision (including any steps ordered)

1. The complainant has requested information on electricity meters and certification periods from the National Measurement Office ("NMO"). The NMO explained that to comply with the request would exceed the £600 cost limit and therefore the appropriate cost limit (section 12) of the FOIA applied.
2. The Commissioner's decision is that the NMO has correctly applied section 12 in this case.

Request and response

3. On 6 February 2012 the complainant wrote to the NMO and requested information in the following terms:
 - *"Please supply copies of the sufficient evidence which was considered when extending the certification periods of the electric meters which are listed in Schedule 4 of the Meters (Certification) Regulations 1998.*
 - *Please supply copies of all laboratory test reports with respect to the electricity meters which have had their certification periods extended as listed in Schedule 4 of the Meters (Certification) Regulations 1998.*
 - *Please supply copies of all Calibration Certificates with respect to the said meters as listed in Schedule 4 of the Meters (Certification) Regulations 1998."*

4. The NMO responded on 1 March 2012. In response to point 1 it explained that initial certification periods are set by the Meter Examiner when the meter is approved. Generally a lifetime prediction model has been used based on Siemens Norm SN29500. The NMO further explained that complying with this part of the request would exceed the cost limit of £600 based on the time required to determine whether information is held and to locate, retrieve and extract the information with an estimate of 5 minutes per record.
5. In response to point 2 the NMO explained that in-service testing reports are not routinely held by the NMO since statutory responsibility for the work was transferred from OFGEM in 2009. The NMO stated it did hold 376 records from 2004-2008 which may produce a report but it would exceed the cost limit to determine if reports were held and to extract the information.
6. With regards to point 3 of the request the NMO explained that electricity meters are not calibrated by the manufacturer prior to them being certified and NMO do not normally receive this information. NMO then went on to suggest that as the Schedule 4 list contains over 700 meters that the request could be refined to a smaller set of records to come under the cost limit. The complainant responded to the NMO and declined to make a refined request.
7. Following an internal review the NMO wrote to the complainant on 19 April 2012. It clarified that about 370 records had been identified as possibly producing the sort of report requested and the time taken to find and print a report would exceed the cost limit. Therefore the request had been refused on the basis of section 12 of the FOIA. The internal review upheld this decision and maintained the request could not be complied with within the appropriate cost limit.

Scope of the case

8. The complainant contacted the Commissioner to complain about the way his request for information had been handled. The complainant specifically asked the Information Commissioner ("the Commissioner") to consider whether it would exceed the appropriate cost limit to comply with his request.
9. The Commissioner considers the scope of the investigation to be whether the NMO correctly applied the appropriate cost limit to the requested information.

Reasons for decision

10. Section 12(1) of the FOIA states that:

"Section 1(1) does not oblige a public authority to comply with a request for information if the authority estimates that the cost of complying with the request would exceed the appropriate limit"

11. The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 ("the Regulations") sets the appropriate limit at £600 for this public authority. A public authority can charge a maximum of £25 per hour for work undertaken to comply with a request which amounts to 24 hours work in accordance with the appropriate limit of £600. If an authority estimates that complying with a request may cost more than the cost limit, it can consider the time taken in:

- i. determining whether it holds the information;
- ii. locating the information, or a document which may contain the information;
- iii. retrieving the information, or a document which may contain the information; and
- iv. extracting the information from a document containing it.

12. To determine whether the NMO applied section 12 of the FOIA correctly the Commissioner has considered the submissions provided by the NMO to the complainant as well as the submissions it provided as part of this investigation.

13. The NMO publishes details of the Schedule 4 meters on its website and there are 772 meters detailed. None of these meters have been certified or recertified during the time the NMO has been responsible for regulation (since 1st April 2009). Prior to this time OFGEM were responsible for regulation and some of the meters had their certificate period changed. The NMO identified electronic records from 2001 to 2008 transferred from OFGEM which needed to be checked and some physical records whose titles did not suggest whether they were applicable to the request.

14. The NMO identified 376 electronic records which were chains of emails that may have produced a report within the scope of the request. The NMO explained that these email chains may contain reports within them in relation to the meter extension of life but it cannot be established if the emails will contain reports without opening and scanning the emails.

15. The NMO explained that these email chains took on average 4.5 minutes to scan for content and establish if a report was likely to be present. Based on the average of 4.5 minutes from the 5 sampled records, the NMO estimated the total time required to look at all 372 records would be 27.9 hours.
16. The NMO further explained that when sampling the 5 records it identified one record with a report which took approximately 30 seconds to print out. The NMO was unable to accurately calculate the time it would take to print out all reports as it had not been able to establish how many reports would exist, however on the basis of a 20% success rate this would add a further 0.8 hours to the estimated time to comply with the request.
17. On this basis the NMO concluded that the total time it would take to comply with the request would be 28.7 hours which, at a rate of £25 per hour of staff time, would be at a cost of £717.50 and would exceed the cost limit of £600.
18. In addition to this, while conducting the internal review, the NMO undertook a further sampling exercise of 7 records, including some of the physical records to be certain that no information within the scope of the request had been missed. The physical files had to be scanned and one of these was found to be 121 pages long and took 12 minutes to look through, with 4 relevant reports. The NMO went on to explain that it then took a further 13 minutes to look at the reports and cross match them with the list of Schedule 4 meters to ascertain if the reports fell within the scope of the request. Following this, one report was able to be cross-matched as the other reports were not included in the Schedule 4 listing.
19. The NMO also sampled another 29 page record which took 3 minutes to review and 3 minutes to establish the report associated with it was not a report for a Schedule 4 listing.
20. Following this sampling exercise and after establishing the physical records may also contain reports within the scope of the request, the NMO updated its estimate on the basis that 217 of these records with a total page count of 14, 417 pages would need to be reviewed. The NMO had estimated it would require 49.6 hours to read the records and find reports and establish if the reports relate to Schedule 4 meters. The NMO based this estimate on the assumption that each record will produce 1 report that will need to be reviewed to establish if it is a report used for increasing or decreasing the certificate life of a Schedule 4 meter or if it is a report generated by a modification to the meter.

21. The NMO also sampled some more modern electronic records which it found took less time as the email trails were shorter but these records did not produce any relevant reports. However the time taken to establish that these records contained no relevant information was on average 1.1 minutes per record. Based on the number of records the NMO estimated it would amount to 7.25 hours to review these records.
22. Based on these figures the NMO has indicated it would take a total of 56.85 hours at a cost of £1441.25 to establish if information is held relevant to the request within these records.
23. In this case the Commissioner is satisfied that the NMO has provided sufficient estimates to demonstrate that to search its electronic and physical records to ascertain if relevant reports are held and to then retrieve and extract the reports, would exceed the cost limit and section 12 was correctly engaged in this case.
24. Having considered the public authority's response and the steps it took to try and provide advice and assistance to the complainant the Commissioner is satisfied that it has discharged its duties under section 16(1) and can see no further advice or assistance the NMO can provide to the complainant.

Right of appeal

25. 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: informationtribunal@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

26. 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.
27. 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

Pamela Clements
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