

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

### **Decision notice**

**Date:** 9 October 2013

**Public Authority:** Northern Health & Social Care Trust

**Address:** Causeway House  
Route Complex  
8e Coleraine Road  
Ballymoney  
Co. Antrim  
BT53 6BP

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

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The complainant has requested information from the Northern Health and Social Care Trust (the Trust) relating to children in care/freed from adoption within a specified time period who have Autism Spectrum Disorder (ASD) or similar conditions. The Trust disclosed some of the requested information to the complainant, however it withheld the remainder, citing the cost limit as set out in section 12(1) of FOIA and stating that it would preclude disclosure. The Commissioner's decision is that the Trust has correctly applied section 12(1) of FOIA and he therefore orders no steps to be taken.

#### **Request and response**

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1. On 19 February 2013, the complainant wrote to the Trust and requested information in the following terms:
  1. "How many children in care/freed for adoption (since April 2010) have an ASD or comorbid condition?  
Common co-morbids include Aspergers, ADD, OCD, ODD, ADHD.
  2. How many of the children were diagnosed after removal from the home?
  3. What kind of training is being undertaken by SWs in particular and primary health care workers in general to be up-to-date with current Autism legislation?"

The Trust responded on 20 March 2013. It provided information in relation to part 3 of the complainant's request, however it stated that to provide the complainant with the information he requested in parts 1 and 2 of his request would exceed the cost limit of £450.00 as set out in section 12 of FOIA.

2. Following an internal review the Trust wrote to the complainant on 24 April 2013. It stated that the reviewer was upholding the original decision not to disclose information in parts 1 and 2 of the complainant's request as disclosure would exceed the cost limit set out in section 12 of FOIA.

### **Scope of the case**

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3. The complainant contacted the Commissioner to complain about the way his request for information had been handled.
4. The Commissioner has considered whether the Trust has correctly applied the cost limit as set out in section 12 of FOIA to the information requested parts 1 and 2 of the complainant's request ("the withheld information."

### **Reasons for decision**

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5. Section 12(1) of 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."

6. The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 (the "Regulations") sets the appropriate limit at £450 for the public authority in question. A public authority can charge a maximum of £25 per hour for work undertaken to comply with a request which amounts to 18 hours work in accordance with the appropriate limit set out above. If an authority estimates that complying with a request may cost more than the cost limit, it can consider the time taken in:

- (a) determining whether it holds the information,
- (b) locating the information, or a document which may contain the information,
- (c) retrieving the information, or a document which may contain the information, and
- (d) extracting the information from a document containing it.

7. To determine whether the Trust applied section 12(1) of FOIA correctly the Commissioner has considered the detailed submissions provided by the Trust in support of its application of that section.
8. Parts 1 and 2 of the complainant's request for information relate to both children freed for adoption and children in care from 1st April 2010 to 19th February 2013 (the date of his original request). The Trust put this in context by informing the Commissioner that, within the Trust, there were 42 children freed for adoption and 1170 children who appeared in care within that time period. The Trust stated that this figure of 1170 children in care is likely to be significantly higher than the actual number of children in care at a given date, as it will include duplications, for example, children who had been in and out for respite or who had numerous episodes of care within the timeframe. Therefore, the Trust explained to the Commissioner that, in order to consider the complainant's request in more realistic terms, it extracted from the Trust's Social Care System (Soscare) the number of children who were in care as at 19th February 2013, which was 674.
9. The Trust informed the Commissioner that its Soscare system records information in relation to social care intervention, and does not record medical diagnoses, such as ASD or co-morbid conditions. Information relating to children and any diagnosis of ASD or another co-morbid condition may or may not be recorded on other Trust systems, such as the LCID system, which is used by health visiting staff and Allied Health Professionals. The two sets of electronic records in question cannot be easily linked or matched automatically. Therefore, in order to respond to the complainant's request for, "how many children in care/freed for adoption (since April 2010) have an ASD or co-morbid condition", it would be necessary to create a list, using a unique identifier, of the 42 children freed for adoption and the 674 children in care, so 716 in total, and manually cross-check LCID records using the unique identifiers to ascertain if there is a recorded diagnosis of ASD or other co-morbid condition held on each of these children. The Trust estimated that to review each electronic record would take approximately 10 minutes. This would equate to approximately 119 hours of one member of staff's time to complete.
10. The Trust explained that another approach to part 1 of the complainant's request would be to review the individual social care client file for each of the 716 children. However, advice from a social care professional indicated to the Trust that each case file would require a thorough review, which would be likely to take 1 and ½ to 2 hours per file. The Trust further explained that, in the view of the social care professional, it would be highly unlikely, in any case, that a diagnosis such as ASD would be detailed within the social care file, as a high level of children presenting into the care system are likely to

display characteristics associated with, for example, attachment disorder, which are similar to those traits of ASD. As such, medical professionals are unwilling to make a diagnosis of ASD or similar condition in a child who is presenting through the care system until they are much older, when other factors can be ruled out. Therefore, the information potentially available would be inconclusive.

11. In relation to Mr Henry's second question for, "how many of the children were diagnosed after removal from the home"; the Trust explained that this information would not be held on any information system. The only potential source of this information is the individual client files held within children's social services. As such, this would require the same manual trawling of files as was considered above, i.e. 1 and ½ to 2 hours per file, for 716 files.
12. Given the Trust's detailed explanation and the above estimated times that would be involved in responding to the complainant's request the Commissioner is of the view that Section 12(1) of the Freedom of Information Act (FOIA) 2000 has been correctly applied by the Trust in this case to the withheld information.

## Right of appeal

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13. 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](mailto:informationtribunal@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm](http://www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm)

14. 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.
15. 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 .....**

**Rachael Cragg**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**