

Freedom of Information Act 2000

Decision notice

Date: 14 April 2014

Public Authority: Dudley Metropolitan Borough Council
Address: The Council House
Dudley
DY1 1HF

Decision (including any steps ordered)

1. The complainant wrote to Dudley Metropolitan Borough Council (the Council) and requested information regarding schools and general information held by the Council about accidents, complaints, grievances, disciplinary action and suspension of staff and pupils.
2. The Council refused the request under section 12 of the Freedom of Information Act 2000 (the Act) as it estimated the cost of complying with the request would exceed the appropriate cost limit. The Commissioner's decision is that the Council is correct to refuse the request under section 12. No further action is required.

Request and response

3. On 11 September 2013, the complainant wrote to the Council and requested information in the following terms:
 - "1. Date, time, location, gender, age and nature of all staff and or pupils involved in accidents.*
 - 2. All complaints made by staff and young person giving date, gender, race, age, role/position, location and nature of complaint.*
 - 3. All grievances made by staff, giving date, gender, race, age, role/position, location, outcome, action and nature of grievance.*
 - 4. All disciplinary action, giving date, gender, race, age, role/position, centre, outcome, action and nature of disciplinary.*

5. All suspensions of staff and pupils giving date, gender, race, age, role/position, location, and reason for suspension."

4. The Council responded on 8 October 2013 and refused the request under section 12 of the Act, although it did not produce an estimate explaining how long it would take to comply with or the reasons why it would take so long. For each of the five items of the request the Council explained ways in which the scope could be reduced so that it could possibly come within the appropriate cost limit.
5. The complainant requested an internal review and opted not to follow the Council's advice on how to reduce the scope of his request. The Council provided the complainant with an internal review on 29 October 2013. The review stated that as the request asked for "all" information held by the Council relating to these subjects they were clearly in excess of the appropriate cost limit, and as the complainant had chosen not to limit the scope of the request the Council could not process it.

Scope of the case

6. The complainant contacted the Commissioner on 30 October 2013 to complain about the way his request for information had been handled.
7. The Commissioner considers the scope of the complaint to be whether the Council is entitled to refuse the request under section 12 of the Act.

Reasons for decision

Section 12 – cost of complying with the request

8. Section 12(1) states that a public authority is not obliged to comply with a request for information if the authority estimates that the cost of complying with the request would exceed the appropriate cost limit.
9. The appropriate cost limit is defined in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004. Under regulation 3 the appropriate cost limit is set at £450 for a public authority such as the Council. Under regulation 4 the Council may charge up to £25 per hour to determine whether information is held, and then locate, retrieve and extract the information. At that rate, the appropriate cost limit equates to 18 hours – or 1080 minutes – of work.
10. In order to determine whether complying with the request would exceed the appropriate limit the Commissioner has considered the submissions put forward by the Council and determined whether these are

reasonable. Where possible, the Commissioner has asked the Council for cogent evidence to back up its arguments in order to provide a detailed account of why complying with the request exceeds 18 hours of work.

Item 1 of the request – accidents

1. Date, time, location, gender, age and nature of all staff and or pupils involved in accidents.

11. The Commissioner did consider whether the request related entirely to schools or whether it was intended to encompass all information held by the Council. In his view, the request specifies “all” information, and the Council did mention that the request would be applied to all information held rather than just schools. Therefore, the Commissioner has proceeded with his investigation with the scope of the request being for all information held by the Council and not just that held relating to schools.
12. In its submissions to the Commissioner the Council explained that up until its electronic reporting system was introduced in April 2012 its accident recording system was “almost exclusively paper based” and not held in an electronic format. The Council explained that this would add to the time needed to determine whether information was held, and then locate and extract the relevant information. The exception to this was the Council’s Adult Services Directorate which holds information in an electronic database, but this only holds information relating to Adult Services and the required information dates back to 2007.
13. In order to locate all of the potentially relevant information the Council would have to examine its extensive paper records and archived scanned reports. The reports are stored as image files so do not have searchable data, meaning each would have to be inspected to determine whether it is relevant to the complainant’s request. The Council also holds a large amount of microfiche records relating to accidents involving children, as it is obliged to hold onto all records until the children reach the age of 21. Although the Commissioner has not been given an exact figure as to how much information will be held about this, he considers that as the Council has a responsibility for thousands of children in its authority the amount of information will be sizeable.
14. The Council is also responsible for retaining information about accidents that occur at schools, and under the terms of the Act holds the information contained in incident report books which are issued to schools. The Council stated it provided approximately 300 – 400 of these books to schools before the system changed in April 2012. Schools tend to have a lot of accidents due to the frenetic nature of school life which result in bruises and minor injuries.

15. As part of its estimate the Council stated it would take approximately half an hour for each of the 112 schools which report to the Council to extract the relevant information, which equates to 56 hours of work. The Council stated that it could easily be the same again to take this from its records which don't relate to schools, resulting in 112 hours to comply with item 1 of the complainant's request.
16. The Commissioner notes that is a significant amount of time to comply with the request. However, he is mindful that the appropriate cost limit is set at 1080 minutes. Working with the lower estimate of 300 incident report books at the schools, the Council would each need to locate and extract relevant information in less than 4 minutes for each book. This is before the other parts of information were even considered such as the Council's own accident logs. Therefore the Commissioner's decision is that complying with this item of the request would exceed the appropriate cost limit.

Item 2 of the request – complaints

2. All complaints made by staff and young person giving date, gender, race, age, role/position, location and nature of complaint.

17. Since 1 December 2011 the Council has retained information about school complaints in an electronic database. At the time the request was received the database contained information about 367 complaints. The Information Asset Owner at the Council confirmed that it would take about an hour to obtain information relating to the date, gender, race, age, role/position, location of the complaints. However, this Officer stated that in to extract the information about the nature of the complaint would take 183.5 hours. To explain why this takes much longer than the rest of the information stored in the database, the Officer stated the nature of a complaint is stored in freeform boxes within the database, which would need to be manually checked in order to ensure it was within the scope of the request before it was extracted. In addition to this, the Council holds information about another 2000 complaints not related to schools, which it stated would require a further 15 hours to obtain.
18. The Commissioner is mindful that the estimate provided by the Council is substantial. However the request is for information about every complaint the Council holds so the Commissioner considers it reasonable that the figure would be high. His view is that the figures provided seem plausible and agrees with the Council that it would take a huge amount of work to identify all of the relevant information. The scope of the request clearly exceeds the appropriate time limit and so the Council was correct to refuse the request under section 12 of the Act.

Items 3, 4 and 5 of the request – grievances, disciplinary action and suspension of staff

- 3. All grievances made by staff, giving date, gender, race, age, role/position, location, outcome, action and nature of grievance.*
- 4. All disciplinary action, giving date, gender, race, age, role/position, centre, outcome, action and nature of disciplinary.*
- 5. All suspensions of staff and pupils giving date, gender, race, age, role/position, location, and reason for suspension.*
19. The Council aggregated its response to the Commissioner for the time required to obtain the information for items 3, 4 and 5 of the complainant's request, as the information is largely stored in the same location so could be located and extracted in the same process.
20. The Council's Human Resources Department has a database which dates back to late 2004, but it has only starting storing all of the information relevant to the complainant's request since 2010. It was explained it would take two hours to obtain the requested information for the past four years, but to obtain information from before then would require the Council to locate other sources of information such as old spreadsheets. This was estimated to take anything up to 148 hours.
21. Again, the Commissioner is mindful of the substantial amount of time required to obtain the information. However, given the scope of the request he does not consider it unreasonable that it would take well in excess of 18 hours to comply with the request.

Summary

22. The Commissioner is satisfied that the estimates provided are reasonable and based on cogent evidence. The Council has demonstrated that where information is recent and stored in its new electronic records it can be retrieved and extracted quickly. However, as the time period the complainant has specified is open ended it is to be expected that it encompasses such a large amount of information that it becomes problematic to comply with the request within 18 hours.
23. Therefore, the Commissioner is satisfied that the Council has correctly applied section 12 to the complainant's request. He also notes that under regulation 5 of the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 the Council is within its rights to aggregate requests that ask for similar information provided they are received within 60 working days. The Commissioner considers that all the requests relate to similar information and so the 18 hour appropriate limit could be applied to all 5 items within the complainant's request. In order to obtain relevant information for all 5 items the scope

of this request would have to be severely reduced in order to come within the appropriate cost limit.

Section 16 – advice and assistance

24. Section 16(1) of the Act provides that a public authority is required to provide advice and assistance to any individual making an information request.
25. In relation to section 12 refusals, the Commissioner considers that adequate advice and assistance will have been given if the public authority has provided advice on how to reduce the scope of the request so that it may come within the appropriate cost limit.
26. In this case, the Council suggested reducing the scope of the request by limiting it to the past three years rather than all of the historic information it holds. The Commissioner considers this is reasonable advice and meets the obligation set out in section 16(1).
27. During the course of the Commissioner's investigation it has become apparent there are other ways of reducing the scope of the complainant's request as detailed in this decision notice – e.g. removing the "nature" section of item 2 of the complainant's request. However, the request needs to have a restriction on time period otherwise it will be highly unlikely to come within the appropriate cost limit.

Right of appeal

28. 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: <http://www.justice.gov.uk/tribunals/general-regulatory-chamber>

29. 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.
30. 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

Alexander Ganotis
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