

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 23 June 2014

Public Authority: Conwy County Borough Council
Address: Bodlondeb
Conwy
LL30 8DU

Decision (including any steps ordered)

1. The complainant requested information about expenditure on public relations advice, consultancy and outside public communications services for the financial year 2012/2013. Conwy County Borough Council ('the Council') refused to comply with the request as it would exceed the cost limit under section 12 of the FOIA. The Commissioner's decision is that the Council correctly refused the request under section 12. The Commissioner requires no steps to be taken.

Request and response

2. On 4 November 2013 the complainant wrote to the Council and requested information in the following terms:

"Please disclose how much was spent by the authority on public relations advice, public relations consultancy and outside public communications services in the fiscal year 2012/13".
3. The Council responded on 12 November 2013 stating that compliance with the request would exceed the appropriate limit of £450.00, and as such it was refusing the request under section 12 of the FOIA.
4. On 12 November 2013 the complainant wrote to the Council and requested an internal review of its handling of the request.

5. The Council provided the outcome of its internal review on 26 November 2013 and upheld its decision that it would exceed the appropriate limit to comply with the request.

Scope of the case

6. The complainant contacted the Commissioner on 8 January 2014 to complain about the way his request for information had been handled.
7. The scope of the Commissioner's investigation into this complaint is to determine whether the Council should provide the information requested on 4 November 2013, or whether it was correct in refusing it on the ground of the cost of compliance.

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.

Would compliance with the requests exceed the appropriate limit?

10. The Commissioner asked the Council to provide a detailed reasonable estimate of the time taken and cost that would be incurred by providing the information falling within the scope of the request. The Commissioner asked that, when the Council provided these calculations, a description of the nature of the work involved was also included.
11. In terms of how information relating to the request is held, the Council advised that its General Financial Ledger holds information in relation to expenditure and income and is populated via journals from systems such as accounts payable, debtors, payroll cash management etc. The Council stated that information relating to expenditure on public

relations advice, public relations consultancy and outside public communications in the fiscal year 2012/2013 cannot be obtained solely by extracting a figure from within the General Ledger and would have to be obtained by also examining records within the service.

12. The Council confirmed that there is a general expenditure code in its ledger for consultancy, but there was no specific code for Public Relations (PR) advice/PR consultancy and/or for outside public communications services. Subject to information being correctly coded the General Ledger shows 941 entries against the consultancy expenditure code for the period 2012/13. The Council's Corporate Finance department advised that whilst some of these entries could be excluded based on the knowledge and experience of the accountant/(s) involved, most entries would need to be considered further in order to ascertain if they are caught by the request. The Council also advised that there are capital schemes which may contain PR spend. In addition there are other expenditure codes that would also require selective checking to ensure no miscoding had occurred including, but not limited to, payroll system consultancy, procurement, project development and publicity.
13. The Council confirmed that it does not currently have a corporate electronic document management system, although it is in the process of developing one. As such, any records of expenditure would be held in all manner of service developed systems comprising of a combination of electronic systems (spreadsheet/database/bespoke software) and also manual systems (official order books/invoice records etc), all of which would need to be checked.
14. The Council considers that the third part of the request relating to expenditure on "outside public communications services" is very broad and open to interpretation. For example, it could include expenditure on telephony services, webcasting, web services. The Council asked the complainant to consider refining and/or narrowing the scope of the whole request but he declined to do so.
15. The Council advised that it cited section 12 in its refusal notice based on its knowledge and experience of understanding how its systems operate and in dealing with previous similar requests. As such, its refusal notice did not contain a specific estimate of the cost of complying with the request. Following the complaint to the Commissioner, the Council carried out further work in order to provide an accurate estimate for the cost of complying with the request.

16. The Council provided the Commissioner with a detailed breakdown of the 131 hours it estimated it would take to comply with the request. The Council's estimate is broken down into each of its 13 service areas. The Council advised that the information required to respond to the request is not held or stored in any consistent format across the service areas. As a result, it had not undertaken a sampling exercise as the findings within one service area would not necessarily correlate with the tasks involved in complying with the request within another service area.
17. The Commissioner notes that the estimates provided by each individual service area vary from 1.25 hours to 47 hours. He also notes that the tasks involved in complying with the request vary considerably between service areas, which appear to be related to the way that information is recorded and held.
18. It would not be practical for the Commissioner to record in this notice details of the estimates of each individual service area, but he has summarised some of the estimates below;

Corporate Finance – estimate 47 hours

- Identify which revenue codes may hold the type of expenditure by interrogating the general ledger and liaising with staff who have placed orders to properly classify whether the expenditure meets the definition of PR – estimate 20 hours.
- Undertake the same process as first bullet point in relation to capital schemes which may contain expenditure on PR – estimate 10 hours.
- Analyse ledger queries on the codes identified and ascertain the location of where the invoices and journals are physically held – estimate 5 hours.
- The paper invoices and journal working papers are held in one of 5 locations across the county. Staff would need to go to the relevant building, locate the invoice/journal on the relevant file/journal book and take a photocopy of relevant information – estimate 10 hours.
- Produce an analysis of relevant information extracts – 2 hours.

Environment, Roads & Facilities – estimate 15 hours

- Arrange meetings to discuss matter with officers from each of the 2 services that completed any PR functions to ascertain how much

time each of the officers spent on PR during the period. Carry out a publications audit to find out what publications were produced during the period – estimate 5 hours.

- For each of the officers who carried out a PR function in the period assign a percentage of their salary to account for time spent on PR – estimate 0.5 hours.
- Contact archives to obtain creditor invoices in order to obtain relevant information on any publications produced and PR goods and services procured – estimate 0.5 hours.
- Use the publication audit to find out which budget in the 3 services the cost of each publication was paid from – estimate 2 hours.
- As the creditor invoices would contain other financial information and PR would be coded to several different budget codes it would be necessary to carry out a manual trawl of creditor invoices in order to identify total spend on PR – estimate 7 hours.

Education – total estimate 24 hours

- Liaise with each service manager to explain requirement and request relevant information – estimate 1 hour.
- Each of the 20 service managers to search relevant records and collate data – estimate 1 hour per manager = 20 hours.
- Check and identify appropriate cost against each occurrence identified – estimate 3 hours.

Revenues & Benefits Assessment Service

- Check back through all projects/initiatives undertaken in the period that could be relevant and cross reference against a list of expenditure activity for the same period – estimate 2 hours.
- Sift and identify if there are any expenditure on consultancy and record whether the relevant invoice was held in electronic and/or manual format – estimate 30 minutes.
- Identify location of relevant invoices (locally or within archives) and retrieve invoices – estimate 1 hour (dependent on the number of relevant invoices identified).
- Check whether the invoices contain information relevant to the request and identify the specific expenditure on PR within the

invoice. Staff would need to consider whether any expenditure incurred was recharged to any other organisation – estimate 1 hour.

19. The issue of what constitutes a reasonable estimate was considered in the Tribunal case of Alasdair Roberts v the Information Commissioner [EA/2008/0050] and the Commissioner endorses the following points made by the Tribunal at paragraphs 9 -13 of the decision:
 - “Only an estimate is required” (i.e. not a precise calculation)
 - The costs estimate must be reasonable and only based on those activities described in regulation 4(3)
 - Time spent considering exemptions or redactions cannot be taken into account
 - Estimates cannot take into account the costs relating to data validation or communication
 - The determination of a reasonable estimate can only be considered on a case-by-case basis and
 - Any estimate should be “sensible, realistic and supported by cogent evidence”.
20. As stated above, the detailed estimate provided by the Council shows a significant variation both in terms of the time it would take each individual service area, and the level of detail provided about the tasks involved in complying with the request.
21. The Commissioner considers it debatable whether some of the tasks specified by the Council would fall within those tasks specified in the Fees Regulations. For example, the estimate for the Environment, Roads and Transport department includes 0.5 hours to assign a percentage of the salary of officers who carried out a PR function in the period. The Commissioner does not consider that this information would be likely to fall within the scope of the request. The Commissioner also notes that some of the “follow on tasks” identified by departments would be to a great extent dependent on results obtained from carrying out earlier searches/tasks for example, locating and retrieving relevant invoices would depend on how many relevant invoices had been identified in initial searches.
22. However, the Commissioner accepts that enough of the tasks specified by the Council can be taken into account that the above points would not impact on the conclusion in this case. Due to the nature of the information requested by the complainant and the way in which it is recorded and held within the various service areas of the Council, it is the Commissioner’s view that adequate explanation has been provided

to demonstrate that locating, retrieving and extracting the requested information would exceed the appropriate limit of 18 hours. His conclusion is, therefore, that section 12(1) was appropriately applied and that the Council was not obliged to comply with the request.

Section 16 - advice and assistance.

23. Section 16 places a duty on a public authority to provide advice and assistance to someone making an information request, including helping an applicant refine a request so that it can be answered within the appropriate costs limit.
24. The Commissioner notes that, in its initial refusal notice, the Council did not make the complainant aware of its obligation under the FOIA to provide advice and assistance. However, in his internal review request, the complainant referred to a "very constructive" conversation he had with the Council's head of Press about the matter. He also confirmed that he would be unwilling to reduce the scope of this request because he had submitted the same request to other local authorities in Wales who had provided the information requested. The complainant said that if he varied his request to the Council, he would be unable to carry out an accurate comparison across Welsh local authorities.
25. Although it appears that the complainant has chosen not to refine his request, the Commissioner is satisfied that the Council carried out its duty under section 16 of the FOIA.

Right of appeal

26. 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

27. 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.
28. 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

Anne Jones
Assistant Commissioner
Information Commissioner's Office
Wycliffe House
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