

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 09 October 2018

Public Authority: Northumbria Healthcare NHS Foundation Trust

Address: Northumbria House
7-8 Silver Fox Way
Cobalt Business Park
Newcastle upon Tyne
NE27 0QJ

Decision (including any steps ordered)

1. The complainant has requested information about financial transactions over £25,000. The Northumbria Healthcare NHS Foundation Trust (the Trust) says it is not obliged to comply with the request under section 12(1) of the FOIA, as it would exceed the appropriate cost and time limit to do so. The Commissioner's decision is that the Trust is not obliged to comply with the request under section 12(1). However, she finds the Trust breached section 16 (duty to provide advice and assistance) of the FOIA. No steps are required as a result of this decision.

Request and response

2. On 14 March 2018 the complainant made the following request for information under the FOIA:

'I'd like to make a request under the Freedom of Information act for all transactions over £25,000 from January 2012 to January 2018. Please provide the data in a machine readable format (preferably csv). As a minimum, please make sure to include the date, value and recipient of each transaction. Please also provide details on the procurement category of each transaction if you have it.

Please note that there is a legal requirement for you to publish this data, but after searching your website, I could not find it anywhere. If the information is available, please can you direct me to it?

Your team may be interested in the guidance on producing spending data:

<https://www.gov.uk/government/publicatio...> This letter makes it clear that this guidance applies to the NHS:

<https://www.gov.uk/government/uploads/sy...>

For the avoidance of doubt, I am making this request under the Freedom of Information Act. I await your response within 20 working days.'

3. On 10 April 2018 the Trust responded. It refused to provide the requested information citing Section 12 of FOIA as it estimated that the cost of determining whether it held the information would exceed the cost threshold of £450.
4. The Trust also explained that it: *'does not have a mandatory requirement to publish transactions over £25,000 on our website as we are a NHS Foundation Trust.'*
5. On 11 April 2018 the complainant requested an internal review.
6. The Trust sent the outcome of its internal review on 25 April 2018 and the decision to exempt the information under section 12 was upheld.
7. The Trust explained *'The information is not currently available centrally on one system; as the Trust does not publish spend over £25,000. Therefore in order to retrieve the information you have requested for the time period, it would require significant manual manipulation of all transactions for 72 months. We have calculated that to manually check all transactions within the organisation for a period of 72 months would considerably exceed the cost limits under the Act. We have used a considerable number of suppliers, and these would individually need checked [sic]. As a result we are unable to provide this information.'*

Scope of the case

8. On 10 May 2018, the complainant contacted the Information Commissioner to complain about the way the requests for information had been handled.
9. The Commissioner's investigation has focussed on whether the Trust correctly applied section 12 to the request. She has also considered whether the Trust met its obligation to offer advice and assistance, under section 16.

Reasons for decision

Section 12 – cost exceeds the appropriate limit

10. Section 12 of the FOIA allows a public authority to refuse to deal with a request where it estimates that it would exceed the appropriate limit to:
 - either comply with the request in its entirety, or
 - confirm or deny whether the requested information is held.
11. The estimate must be reasonable in the circumstances of the case. The appropriate limit is currently £600 for central government departments and £450 for all other public authorities. Public authorities can charge a maximum of £25 per hour to undertake work to comply with a request; 18 hours work in accordance with the appropriate limit of £450 set out above, which is the limit applicable to the Trust.
12. A public authority is only required to provide a reasonable estimate or breakdown of costs and in putting together its estimate it can take the following processes into consideration:
 - determining whether it holds the information;
 - locating the information, or a document which may contain the information;
 - retrieving the information, or a document which may contain the information; and
 - extracting the information from a document containing it.
13. Where a public authority claims that section 12 of the FOIA is engaged it should, where reasonable, provide advice and assistance to help the requester refine the request so that it can be dealt with under the appropriate limit, in line with section 16 of the FOIA.

Would the cost of compliance exceed the appropriate limit?

14. As is the practice in a case such as this, the Commissioner asked the Trust to confirm if the information is held, and if so, to provide a detailed estimate of the time/cost taken to provide the information falling within the scope of this request.
15. In its submission to the Commissioner the Trust confirmed that the information requested is held but it is not contained within a single location/system that allows for this to be pulled together. The Trust would need to individually check transactions (invoices) in order to determine those over £25,000 and to collate the information requested (date, value and recipient).

16. In response to the Commissioner's questions the Trust looked at the number of suppliers used and invoices processed over a period of 12 months. *'To give an idea of the scale, in 12 months the Trust trades with around 3542 suppliers, with 175542 invoices processed. In a typical month, the Trust transacts with approximately 2000 suppliers and processes around 14000 invoices.'*
17. The Trust estimated that *'to analyse that number of transactions, the Trust has calculated in the following way: 14,000 invoices X 72 months = 1,008,000 invoices (which are spread over two financial systems). Allowing for 10 seconds checking each invoice and potentially recording the information into a machine readable format, this would mean a total of 2800 hours are needed.'*
18. The Commissioner estimates that at 360 invoices per hour (10 seconds per invoice = 6 per minute x 60 = 360 per hour) the cost limit would be exceeded with 7000 invoices (360 invoices x 18 hours = 6480 invoices) which is about half of a typical month.
19. Given the specific information requested and the volume of invoices per month, the Commissioner accepts that the Trust would take more than the 18 hour limit to respond to the request. She is therefore satisfied that the Trust is correct to apply section 12(1) to the request.

Section 16(1) – The duty to provide advice and assistance

20. Section 16(1) of the FOIA provides that a public authority should give advice and assistance to any person making an information request. Section 16(2) clarifies that, providing an authority conforms to the recommendations as to good practice contained within the section 45 code of practice (the "code")¹ in providing advice and assistance, it will have complied with section 16(1).
21. The Commissioner notes that the Trust acknowledged a failure to assist the complainant in an adequate manner. The Trust stated that it has used this as a *'learning outcome in providing further details to requesters going forward in an effort to increase assistance to individuals'*.
22. The Commissioner finds that the Trust might reasonably have considered any advice and assistance it could have offered the complainant and because it did not do so, she considers the Trust

¹ <https://www.gov.uk/government/publications/freedom-of-information-code-of-practice>

breached section 16(1). That said she has not ordered any steps, given the factors at paragraph 18, the Commissioner considers that it would not have been possible to meaningfully refine the request to bring complying with it within the cost limit.

Right of appeal

23. If 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: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

24. 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.
25. 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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Wycliffe House
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SK9 5AF