

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 31 January 2023

Public Authority: Department of Justice (Northern Ireland)
Address: Castle Buildings
Stormont Estate
Belfast
BT4 3SG

Decision (including any steps ordered)

1. The complainant has requested information about the workings of the Office of Care and Protection. The above public authority ("the public authority") denied holding some of the information and refused the remainder of the request as the cost of compliance exceeded the appropriate limit.
2. The Commissioner's decision is that the entire request exceeded the appropriate limit and therefore the public authority was entitled to rely on section 12 of FOIA in order to refuse it.
3. The Commissioner does not require further steps.

Request and response

4. On 28 July 2022, the complainant wrote to the public authority and requested information in the following terms:

"Please provide me with the following information:

- [1] The staff complement for the Office of Care and Protection, broken down by grade and branch at 31 March for each of the past five financial years up to 31 March 2022.
- [2] The number of staff in post in the Office of Care and Protection broken down by grade and branch at 31 March for each of the past five financial years up to 31 March 2022.

- [3] The number of days sickness absence taken in the Office of Care and Protection, broken down by branch, in each of the past five financial years ending 31 March 2022.
 - [4] The number of days COVID-related sickness absence taken in the Office of Care and Protection, broken down by branch, during the 2020-2021 and 2021-2022 financial years.
 - [5] The number of Enduring Power of Attorneys registered during each of the past five financial years ending 31 March 2022.
 - [6] The number of Enduring Power of Attorneys ending during each of the past five financial years ending 31 March 2022.
 - [7] The number of investigations undertaken by the Office of Care and Protection where the property or finances belonging to an incapable adult appear to be at risk, which were active during each of the past five financial years ending 31 March 2022."
5. The public authority responded on 25 August 2022. It denied holding information within the scope of elements [1] and [2]. It also denied holding information within the scope of elements [3] and [4], but noted that this information might be held by the Department of Finance (NI). In respect of the remaining elements, it relied on section 12 of FOIA to withhold the requested information. It upheld this position following an internal review.

Reasons for decision

- 6. Section 12 of FOIA allows a public authority to refuse to comply with a request if the cost of complying would exceed a certain limit. A public authority may refuse a multi-part request if any individual part exceeds the limit.
- 7. The appropriate limit for this public authority is set at £600 or 24 hours of staff time.
- 8. In order to comply with elements [5], [6] and [7], the public authority estimated that it would need to conduct a manual trawl of 17,495 individual paper files in order to identify and extract information within the scope of the request. It estimated that it took around 10 minutes per file to identify and extract the relevant information, meaning that it would take over 2,900 hours of staff time to comply with the request.

9. The Commissioner accepts that the public authority has no business need to collate such information and would therefore need to extract it from the individual records that it holds.
10. The Commissioner further notes that, unless the public authority were able to review each file in under five seconds, it would be unable to comply with the request. The Commissioner does not consider that five seconds is sufficient to identify and extract the relevant information.
11. The Commissioner is therefore satisfied that responding with elements [5], [6] and [7] – and, by implication, the request as a whole – would exceed the appropriate limit. The public authority was therefore entitled to rely on section 12 to refuse the entire request.

Procedural matters

12. Where a public authority relied on section 12 of FOIA to refuse all or part of a request, it should provide advice and assistance to the requester to help them refine their request such that it falls within the appropriate limit.
13. The public authority explained to the complainant that they could reduce the time parameters of the request but that, even if they did, the information might still be subject to an exemption. A public authority is only obliged to help a requester narrow their request to within the appropriate limit, it is not obliged to reformulate the request such that it is guaranteed to result in the disclosure of information.
14. The Commissioner is satisfied that the public authority discharged its obligations under section 16 of FOIA.

Right of appeal

15. 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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

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

16. 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.
17. 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

Roger Cawthorne
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF