

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 22 February 2024

Public Authority: Bradford Children and Families Trust
Address: Sir Henry Mitchell House
4 Manchester Road
Bradford
BD5 0AL

Decision (including any steps ordered)

1. The complainant requested various information in respect of staff on specified levels/grades at Bradford Children and Families Trust ('the Trust'). The Trust provided most of the information but refused to provide information in respect of the staff on Band levels citing section 12 (cost of compliance exceeds appropriate limit) FOIA. The Commissioner's decision is that the Trust has failed to demonstrate that section 12 applies to the request.
2. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
 - Issue a fresh response to the complainant which does not rely on section 12 FOIA.
3. The public authority must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Act and may be dealt with as a contempt of court.

Request and response

4. On 2 August 2023, the complainant wrote to the Trust and requested the following information in relation to its employees:

- “1. The number of staff on Band Levels?
 2. The number of staff on SO level?
 3. The number of staff on PO level?
 4. The number of staff on Special A to C
 5. The number of staff on Special D to E
 6. Further more for the above can it be broken done [sic] under Gender for question 1-5?
 7. Can it also be further broken down into Ethnic Origin for question 1-5?.”
5. The Trust responded on 4 August 2023. It provided the total figures for items 2 - 5 and the breakdown by gender and ethnic origin for these items. However, it did not provide any information in respect of item 1, or make any reference to it in its response.
 6. Following an internal review the Trust wrote to the complainant on 18 August 2023. It refused to provide the requested information on the basis that compliance would exceed the appropriate limit and cited section 12 FOIA.

Scope of the case

7. The complainant contacted the Commissioner on 18 August 2023 to complain about the way their request for information had been handled. The complainant informed the Commissioner that they could not understand how the Council could provide the total information in respect of items 2-5 of their request and broken down by gender and ethnic origin, but could not provide the information in respect of item 1.
8. The scope of the Commissioner’s investigation is to consider whether the Trust was entitled to rely on section 12 FOIA to refuse item 1 of the complainant’s request, and the subsequent breakdown of figures by gender and ethnic origin.

Reasons for decision

Section 12 – cost of compliance exceeds the appropriate limit

9. Section 12 of the 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.”

10. 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. Under these Regulations, a public authority can charge a maximum of £25 per hour for work undertaken to comply with a request. This equates to 18 hours work in accordance with the appropriate limit set out above.
11. 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:
 - (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.
12. The Trust informed the complainant that it would take in excess of 2.5 working days (18 hours) to determine appropriate material and locate, retrieve and extract the information, therefore their request would not be processed further. However, the Trust provided no additional details regarding how it had arrived at this conclusion.
13. The Commissioner contacted the Trust on 11 October 2023 and asked for a full breakdown of what would be involved in complying with item 1 of the request.
14. The Commissioner also asked the Trust how it was possible to provide the information in respect of other items of the request and not staff on Band levels. The Commissioner queried if the records for Band levels were held differently to other levels and if so, for the Trust to provide the appropriate details. The Commissioner also asked the Trust whether

15. it had conducted a sample exercise, and if so, for details of the sample undertaken. To date, the Commissioner has not received a reply from the Trust.
16. The Commissioner cannot accept that compliance with a request would exceed the cost limit simply on the assertion of the public authority. He needs to see a clear estimate, with details and evidence of how it was calculated so that he can be satisfied that the estimate is reasonable. He therefore has no option but to conclude that the Council has failed to demonstrate that compliance would exceed the appropriate limit as specified in paragraph 10 of this notice, and accordingly, that the Trust was not entitled to rely on section 12 FOIA to refuse to comply with item 1 of the request.

Right of appeal

17. 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

18. 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.
19. 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

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