

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 21 November 2024

**Public Authority:** Governing Body of Breda Academy

**Address:** Newtownbreda Road  
Belfast  
BT8 6PY

### **Decision (including any steps ordered)**

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1. The complainant has requested information from Breda Academy in relation to the Year 8 curriculum. Breda Academy relied on section 12(1) of FOIA (cost of compliance) to refuse the request.
2. The Commissioner's decision is that the public authority was entitled to rely on section 12(1) of FOIA to refuse the request. The Commissioner also finds that the public authority complied with its section 16 obligation to offer advice and assistance.
3. The Commissioner does not require further steps to be taken.

### **Request and response**

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4. On 22 February 2024 the complainant requested from Breda Academy:-
  1. A copy of the current curriculum that Year 8 will be following in each subject.
  2. The resources the teacher in each subject will be using.
  3. Any outside agencies that will be used.
  4. Psychology reports on how each unrealistic topic will have on the mental health of the children.
  5. The authorisation you have to teach these subjects.

5. Breda Academy responded on 28 February 2024. It refused to disclose the requested information, citing the cost limit under FOIA.
6. The complainant requested an internal review on 25 April 2024 and Breda Academy responded reiterating its use of the cost limit.

## **Reasons for decision**

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### **Section 12 – cost of compliance**

7. The following analysis covers whether complying with the request would have exceeded the appropriate limit.
8. Section 12(1) of the FOIA 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 limit” as set out in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 (“the Fees Regulations”).
9. The appropriate limit is set in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 at £600 for central government, legislative bodies and the armed forces and at £450 for all other public authorities. The appropriate limit for Breda Academy is £450.
10. The Fees Regulations also specify that the cost of complying with a request must be calculated at the rate of £25 per hour, meaning that section 12(1) effectively imposes a time limit of 18 hours for the public authority.
11. Regulation 4(3) of the Fees Regulations states that a public authority can only take into account the cost it reasonably expects to incur in carrying out the following permitted activities in complying with the request:
  - determining whether the information is held;
  - locating the information, or a document containing it;
  - retrieving the information, or a document containing it; and
  - extracting the information from a document containing it.
12. A public authority does not have to make a precise calculation of the costs of complying with a request; instead only an estimate is required. However, it must be a reasonable estimate. The Commissioner considers that any estimate must be sensible, realistic and supported by cogent

evidence. The task for the Commissioner in a section 12 matter is to determine whether the public authority made a reasonable estimate of the cost of complying with the request.

13. Section 12 is not subject to a public interest test; if complying with the request would exceed the cost limit then there is no requirement under FOIA to consider whether there is a public interest in the disclosure of the information.
14. Where a public authority claims that section 12 of 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 FOIA.

### **The public authority's position**

15. Breda Academy explained to the Commissioner that in the Year 8 curriculum the lessons are as follows; -
  - 43 lessons each week - 40 weeks in the curriculum (2 weeks of internal exams) - 38 weeks x 43 lessons = 1634 lessons in the academic year - 3 academic terms with circa 6 to 8 topics covered in 1 year at 2 to 3 topics per term
  - 16 subjects x 6 to 8 topics = circa 100 topics (100 Units of Work in Schemes of Work that are covered in 1 year group). 100 topics and 16 schemes of work = 116 documents.
16. Breda Academy provided the Commissioner with a sample estimate of costs of compliance with each point of the complainant's request. The Commissioner has only detailed the sample estimate in respect of Points 1 and 2 of the complainant's request as the total costs estimate for the two points already far exceeds the cost limit as set out in section 12(1) of FOIA.
17. Breda Academy explained that each Head of Department would be required, using the quickest methods to identify, locate, and submit to an electronic folder, around 6 to 8 units of Work and 1 Scheme of Work. This would take each Head of Department circa 30 minutes each (1 sample exercise was carried out to determine 30 minutes). 16 x 30 minutes = 8 hours. 8 x £25.00 = £200 - 1 electronic folder to be set up and disseminated with email instruction to Heads of Department = 15 minutes. 0.25 x £25.00 = £6.25
18. In order to retrieve, check and extract using the quickest methods each of the 116 documents (100 topics and 16 schemes of work) would be retrieved, checked, extracted, and sent to the printer to be collated and placed in a folder = 10 minutes (1 sample exercise was carried out to

determine 10 minutes). 116 documents x 10 minutes each = around 20 hours x £25.00 = £500. Therefore the total cost for responding just to Point 1 of the request would be £706.25

19. Breda Academy went on to explain the costs of responding to Point 2 of the request as follows:-

- 43 lessons each week - 40 weeks in the curriculum (2 weeks of internal exams) - 38 weeks x 43 lessons = 1634 lessons in the academic year - Therefore, circa 1634 lesson plans. - 1 electronic folder to be set up and disseminated with email instruction to all teachers = 15 minutes.  $0.25 \times £25.00 = £6.25$  - To retrieve, check, extract using the quickest methods each of the 1634 documents by sending to the printer to collate and place in a folder = 5 minutes (sample exercise carried out). 1634 documents x 5 minutes each = around 136 hours x £25.00 = £3,400

### **The Commissioner's view**

20. In determining whether Breda Academy has correctly applied section 12(1) of FOIA in this case, the Commissioner has considered the rationale and supporting information provided.
21. The Commissioner accepts Breda Academy's estimate of the cost of compliance, based on a sampling exercise, as reasonable, and he is satisfied that it is supported by cogent evidence. The Commissioner therefore finds that Breda Academy was entitled to rely on section 12(1) of FOIA to refuse the request

### **Procedural matters**

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#### **Section 16 – advice and assistance**

22. Section 16 of FOIA requires public authorities to provide reasonable advice and assistance to those making, or wishing to make, information requests.
23. When a public authority refuses a request because the cost of compliance exceeds the appropriate limit, it should explain, to the requester, how they could refine their request such that it would fall within that limit. In rare cases, it will be appropriate for the public authority to explain to the requester why their request cannot be meaningfully refined.

24. In this case, Breda Academy offered to meet with the complainant at the outset to discuss the complainant's concerns and queries about the curriculum. The complainant refused such a meeting, stating that they simply wanted the requested information.
  25. Breda Academy provided some information and guidance to the complainant in response to each point of their request. It also provided some workbooks and information on what topics were being studied in Year 8. It also reiterated its offer of a meeting.
  26. The Commissioner is therefore satisfied that Breda Academy did comply with section 16 of FOIA when dealing with this request.
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## Right of appeal

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27. 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](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

28. 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.
29. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

**Deirdre Collins**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**