

Freedom of Information Act 2000 (Section 50)

Decision Notice

Date: 13 June 2011

Public Authority: Rhondda Cynon Taf County Borough Council
Address: The Pavilions
Cambrian Park
Clydach Vale
Tonypany
CF40 2XX

Summary

The complainant requested information about Council expenditure for two financial years. The Council refused the request on the basis that the estimated cost of compliance would exceed the appropriate limit as set out at section 12(1) of the Act and the Fees Regulations. The Commissioner's decision in this case is that the Council acted correctly in refusing the request under section 12(1).

The Commissioner's Role

1. The Commissioner's duty is to decide whether a request for information made to a public authority has been dealt with in accordance with the requirements of Part 1 of the Freedom of Information Act 2000 (the "Act"). This Notice sets out his decision.

The Request

2. The Commissioner understands that prior to September 2010, correspondence between the complainant and the Council took place in relation to his request for details about Council expenditure for the previous year. The Council provided the complainant with various links to information on its website, consisting of the Council's Budget Book and Budget Summary and operational and financial performance reports.
3. On 7 September 2010, the complainant wrote to the Council to advise that the information provided did not meet the terms of his request as it

did not “go into actual line-by-line expenditure or job titles”. On 13 September 2010, the complainant also advised the Council that the information relating to expenditure available on its website did not identify information relating to grants, nor expenditure on “possibly unnecessary items”. The complainant confirmed that he wished to see the “minutia” [sic] of expenditure.

4. On 11 October 2010, the complainant wrote to the Council confirming that he wished to see the ‘minutia’ of expenditure and not just high level total expenditure figures by department. He listed a number of examples to further clarify the nature of his request, as detailed below:
 - “job titles
 - salary bands and the number of employees within those bands
 - what grants have been made and to whom
 - what money has been spent on possibly unnecessary items such as paying £179,000 for a dormouse bridge in Llantrisant”.
5. The Council issued a refusal notice on 12 October 2010 stating that compliance with the request would exceed the “appropriate limit” as defined in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 (‘the Regulations’). The Council stated that, it may be able to provide some information if the request was refined or reduced to bring the costs within the appropriate limit.
6. On 19 October 2010 the complainant contacted the Council and requested an internal review of its decision not to provide the information requested. The complainant stated that, in his view, the requested information should be fully available to the public. He again confirmed that he wanted detailed information on expenditure, in essence a low level expenditure report for each department. The complainant stated that, without such detailed information on expenditure, he was unable to consider whether there was any wastage or whether any savings could be made. He again provided examples of the type of information he considered should be provided, as detailed below:
 - “How many salaries over say £50,000 – and their job titles
 - What grants/payments have been made exceeding say £10,000 and to whom?

One that springs to mind is the infamous ‘dormouse bridge’ at a ridiculous [sic] cost – who authorised that?

- How much was spend [sic] in travel/first class travel/taxis
- Was money spend [sic] on unnecessary trips?”

7. The Council provided the outcome of its internal review on 9 November 2010. It upheld its decision that to comply with the request would exceed the cost limit set out in the Regulations. In its internal review the Council re-iterated that, it may be able to provide some information if the request was refined or reduced.

The Investigation

Scope of the case

8. On 22 November 2010 the complainant contacted the Commissioner to complain about the way his request for information had been handled. The complainant specifically asked the Commissioner to consider whether the information requested should be provided. The complainant pointed out that, in his view, the information requested should be readily available, particularly in light of the Prime Minister's recent announcement that government departments should be publishing detailed expenditure information to allow the public to identify opportunities for savings.
9. The complainant's request was entitled "Council Expenditure last year breakdown". On 7 January 2011 the Commissioner wrote to the complainant to clarify the time period covered by his request – ie whether it related to a financial or calendar year. The complainant responded the same day confirming that the request covered the Council's normal accounting period. As the request referred to "last year", the Commissioner has interpreted this to mean the period from 1 April 2009 to 31 March 2010.
10. In a response to the Commissioner dated 18 March 2011, the Council stated that it had interpreted the request to be for copies and sight of every single transaction made during the period covered by the request. The Council confirmed that it was relying on section 12(1) of the Act as the basis for refusing the request. The Council also stated that it did not hold information relating specifically to expenditure on "wastage" and unnecessary items.
11. On 1 March 2011 the Commissioner wrote to the complainant to clarify the nature of the information sought. The Commissioner explained that the Council had interpreted his request to be for copies and sight of every single transaction during the period. The Commissioner asked the complainant to clarify if this was the information he was seeking. The complainant responded to the commissioner stating that:

"I am not looking for new information – I am just looking to scrutinise expenses that SHOULD be publicly available.....I am sure that all

councils would say that they don't incur 'unnecessary' expenditure – but it is for others to judge what is deemed 'necessary' or 'unnecessary', which is why I wish to scrutinise the detail..... Surely this information will be made available to its [the Council's] auditors? I am asking for no more than what they see. I am quite capable of analysing expenditure on a line by line basis (ie all 2m transactions) given that I am provided with a list of what the cost codes are".

12. In light of the complainant's clarification, the focus of the Commissioner's investigation has been to determine whether the Council should provide detail and copies of every transaction for the financial year 2009/10 or whether it was correct in refusing the request by virtue of section 12(1) of the Act.

Chronology

13. On 7 January 2011, the Commissioner wrote to the Council to confirm that the complaint had been deemed eligible for formal consideration. The Commissioner also asked the Council for further representations in relation to its application of Section 12 of the Act to the request.
14. The Council responded on 18 February 2011 and confirmed that it was relying on section 12(1) of the Act as the basis of its refusal to comply with the request. The Council advised that it had interpreted the clarification of the complainant's request to be for copies and sight of every single transaction during the period. The Council provided some limited arguments in relation to the reasons why complying with the request would exceed the cost limit. The Council also stated that it was likely that some information falling within the scope of the request, once considered, would be exempt under one of the exemptions in Part II of the Act. The Council advised that the time, and subsequent cost involved, in officers having to examine each transaction to determine whether it was exempt would be substantial and well in excess of the appropriate cost limit.
15. On 1 March 2011, the Commissioner wrote to the complainant to advise that the Council had interpreted his request to be for copies of every transaction during the period. Given the fact that on average there were around 2 millions transactions each year, the Council maintained its position that to comply with the request would exceed the appropriate. The Commissioner asked the complainant to further clarify the nature of the information sought, and specifically, whether he was interested in received copies of each transaction for the accounting period in question.

16. The complainant responded to the Commissioner on 13 March 2011. Further detail about the content of this communication is set out in paragraph 11 of this Notice.
17. On 22 March 2011, the Commissioner wrote to the Council asking for more detail about how the information relevant to the request was held, and the searches and processes required in complying with the request. The Commissioner also pointed out to the Council that, under section 12, the time take to consider whether information is exempt under any of the exemptions contained within Part II of the Act was not an activity which could be taken into account when considering whether complying with a request would exceed the appropriate cost limit. The Commissioner referred the Council to the Informal Tribunal decision in the cases of *Jenkins vs Information Commissioner and Defra (EA/2006/0067)* and *DBERR vs Information Commissioner and Friends of the Earth (EA.2007/0072)*. The Commissioner also pointed out that this approach (and particularly the point about not being allowed to charge for the time spent considering exemptions or redactions) was recently confirmed by the High Court in *The Chief Constable of South Yorkshire v Information Commissioner* [2011] EWHC 44¹
18. The Council responded to the Commissioner on 5 April 2011 and provided further representations in relation to its application of section 12(1) of the Act to the request.

Analysis

Interpretation of request

19. The Council confirmed to the Commissioner, that having provided the complainant with access to final accounts, budget books and detailed quarterly Council performance reports, he maintained that this was not the level of detail he was seeking. The Council therefore interpreted the request for the full "minutia" of expenditure on a "line by line level of detail for each department" to be for copies of, and sight of each and every single transaction against each cost code and then sorted by each individual department.
20. As stated at paragraph 11 of this Notice, the complainant confirmed that he wished to see a more detailed breakdown of expenditure, stating that he was "quite capable of analysing expenditure on a line by line basis (ie

¹ A copy of this judgment can be found at the following link:
<http://www.bailii.org/ew/cases/EWHC/Admin/2011/44.html>

all 2m transactions) given that I am provided with a list of what the cost codes are”.

21. In the Commissioner’s view the request is worded in a way that it could be seen to be ambiguous to a general reader. However, given the clarification provided by the complainant to the Commissioner, he considers that the Council’s interpretation of the request as being for copies and sight of every transaction during the financial period 2009/2010 to constitute an objective reading of the request.
22. This Decision is made on the above understanding of the request and this understanding was confirmed with the complainant. The public authority also confirmed during the investigation that it understood the request in this way.

Section 12 – cost of compliance exceeds appropriate limit

23. The Council confirmed that it is relying on section 12(1) as the basis for refusing the request. Section 12(1) of the Act provides that public authorities do not have to comply with requests where the estimated cost of complying exceeds the appropriate limit as specified by the Regulations. All sections of the legislation are reproduced in the attached legal annex.
24. Section 4(3) of the Regulations sets out the basis upon which an estimate can be made:

“(3) In a case in which this regulation has effect, a public authority may, for the purpose of its estimate, take account only the costs it reasonably expects to incur in relation to the request in –

- (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.*

(4) To the extent to which any of the costs which a public authority takes into account are attributable to the time which persons undertaking any of the activities mentioned in paragraph (3) on behalf of the authority are expected to spend on those activities, those costs are to be estimated at a rate of £25 per hour.”

25. The Regulations state that the appropriate cost limit is £600 for central government, legislative bodies and the armed forces and £450 for all other public authorities, which includes the Council. This is equivalent to 18 hours’ work.

Would compliance with the request exceed the appropriate limit?

26. The Council's position is that it holds the information requested but it maintains that to process the request in the level of detail being sought by the complainant would involve work beyond the costs limit, and as such section 12(1) applies.
27. The Council states that it has an annual revenue budget of £430 million comprising of approximately 2 million transactions. Each transaction is recorded against a "financial code" which is made up of a cost code, a detail code, and where relevant a classification code. In total the Council advise that there are 233,124 different financial codes upon which transactions are held. The Council's financial transactions are held on a "Civica Financials" corporate financial management and accounting system. The Council state that transactions emanate from a number of different sources including, but not limited to:
- Creditor transactions – invoices paid either centrally at its offices in Bronwydd or locally at other locations within the County Borough.
 - Payroll transactions
 - Feeder systems – satellite systems which interface with the Council's main systems. These provide different levels of detail about both individual and aggregated transactions.
 - Direct system entry – accounting entries to ensure that the Council's accounting records are properly maintained in accordance with the relevant accounting regulations.
28. In order to estimate the cost of complying with the request, the Council reviewed a sub-section of information held in relation to one of its smaller directorates – Corporate Services. The Council state that its general ledger system holds limited information relevant to each transaction as its general ledger system is not the primary source system, and further detail of each transaction is recorded within the individual system. For example, the creditor transactions system will record further detail about the payments which have emanated from that system. Further, the Council states that information about a transaction held on its financial system is in itself only a user defined summary of the fuller narrative that would be contained on the hard copy of the actual invoice. As such, the Council states that the transaction level information entered onto its financial system is inconsistent and in many cases only likely to be of any meaning to the spending service area or department. This is because the transaction system is intended for its own internal purposes when transactions are entered onto the system.

29. The Council's position is that providing the level of detail relating to expenditure, as requested in this case, would require a review of each transaction in order to ensure that it is supported by a sufficient and meaningful narrative. In summary, the Council states that to provide the information requested the following processes would need to be undertaken:
- (i) Run transactions report for the financial year. The time involved in this process is more "computer time" in terms of processing and extracting the information as opposed to staff time.
 - (ii) Review transactions report to highlight information gaps in relation to the level of detail and narrative about the transaction. The Council has been unable to quantify the time for this process as it believes that it is very difficult to estimate the time it would take to review 2 million lines of data. However, out of the 2 million transactions each year, it estimates that around 400,000 transactions will require further interrogation in order to obtain sufficient information to respond to the request.
 - (iii) For each transaction with "missing" details, interrogate its creditor system/debtor system or other source system to identify detail relating to the transaction. The Council calculate that this will take approximately one minute per transaction, for each of the 400,000 transactions that it estimates that this process will need to be carried out for.
 - (iv) If insufficient detail is recorded for the transaction, retrieve the original paper documentation relating to the transaction to capture necessary information.
30. In relation to the process detailed at (iv) above, the Council state it does not have any electronic software for invoices (for example data imaging software) and invoices are retained and stored in the various office locations. It is of the view that in some cases it will be necessary to retrieve the original paper documentation in order to capture the relevant information about the transaction. For invoices stored centrally at its offices in Bronwydd relevant searches of its filing system would need to be undertaken to retrieve the paperwork. If the paperwork is not stored centrally, it would be necessary to contact the relevant office where the paperwork is stored and arrange either for a hard copy of the invoice to be retrieved or for a verbal summary of the information contained within it to be obtained. The Council's position is that that even taking an extremely conservative estimate of 1 minute to retrieve each invoice would significantly exceed the appropriate limit.

31. In support of its estimate in relation to the number of transactions that would require further interrogation to obtain sufficient narrative to respond to the request, the Council reviewed 5 cost codes (numerically the first 5 on the Council's system). The results of this sampling exercise are detailed in the table below:

Cost Centre No	Cost Centre Name	No of transactions	No transactions without reference information	Percentage transactions without reference information
1020	Porth Plaza	530	165	31%
1031	Nantgarw China Works	191	41	21%
1046	Valleys Innovation Centre	1053	155	14%
1394	E A Grant	16	11	68%
1398	Courier Service	586	127	21%

32. The Council has disregarded cost centre code 1398 as being a potential statistical anomaly, and have calculated that out of a total of 2360 transactions relating to the cost centres reviewed, 488 transactions (20%) did not have sufficient narrative recorded in its corporate financial management and accounting system. These transactions, would therefore need further work, in line with the processes detailed in paragraphs 28(iii) and 28(iv) of this Notice, in order to obtain the necessary detail. Based on 2 million transactions a year, this would equate to a figure of around 400,000 transactions, which would require such intervention.
33. In relation to expenditure and transactions relating to individual schools, the Council state that a separate electronic management information system is in place for recording expenditure at schools, known as SIMS. The SIMS system is used and installed locally at each individual school, It is not a cross-school database and each school retains its own version of the installation. The Council advise that there is no mechanism to extract data from the SIMS system from any location other than at the school itself. As such, in order to provide information relating to school expenditure, an officer would have to visit each individual school in order to extract the relevant information from its database. The Council state that if the information requested was to be provided in electronic format to the complainant, it would also then be necessary to obtain the data from each school in electronic format to enable it to be merged with other expenditure and transaction data. Alternatively, it would be

necessary to print all relevant information for each school in hard copy format.

34. The Council confirmed that there are 130 schools in its area. It has provided the following estimate of the time it would take to extract information relevant to the request from each individual school:
- Travel to each school by car – between 5 and 10 minutes X 130 schools = 10 to 21 hours
 - Travel from car to location of database within school, including relevant sign-in procedures at each school, and return to car after the process – 5 minutes X 130 schools = 10 hours
 - Extract data from management information system at school – 10 minutes X 130 schools = 21 hours

The Council state that the above estimate assumes that the data held in electronic form at each school contains sufficient information to respond to the request. However, further interrogation may be required, along the line of the processes detailed at paragraphs 27 and 28 of this Notice.

35. The Council pointed out that there would also be associated logistical issues in dealing with a data file of 2 million rows of information. It explained that the Council's standard operating platform for Microsoft Excel is the 2003 version, which has a limit of 65,536 rows. The Council acknowledge that there are other tools available to provide the information, but maintain that a data file of 2 millions rows would present a real practical issue to deal with, which would take additional time, which it has not been able to quantify.
36. Whilst the Council has not provided an overall total estimate for the time it would take to comply with the request, taking into account all of the processes detailed above, the Council maintain that compliance would significantly exceed the appropriate limit.
37. The issue of what constitutes a reasonable estimate in relation to the cost limit was considered by the Information Tribunal in the case of *Roberts v the Information Commissioner*. The Commissioner is assisted by the Tribunal's approach as set out in 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”.
38. The Tribunal went on to suggest that producing an estimate requires a process of both investigation and assessment/calculation. At paragraph 12, the Tribunal said:
- “....The investigation will need to cover matters such as the amount of information covered by the request, its location, and the hourly rate of those who have the task of extracting it. The second stage will involve making an informed and intelligent assessment of how many hours the relevant staff members are likely to take to extract the information...”.*
39. The Regulations specify those tasks that may be taken into account when forming a cost estimate. The Commissioner considers it debatable whether some of the tasks specified by the Council would fall within those tasks specified in the Regulations. However, the Commissioner accepts that enough of the tasks specified by the Council can be taken into account that the possibility that some of the tasks cannot be taken into account will not impact upon the conclusion here.
40. The Council has provided the Commissioner with a sample of information held within its financial management and accounting system to demonstrate the level of detail recorded against individual transactions. Based on this and the representations put forward by the Council, the Commissioner accepts that the level of detail recorded against individual transactions varies. He notes that whilst there is sufficient detail to meet the terms of the request for some transactions, further work is required in order to obtain additional information relating to other transactions.
41. Based on the sampling exercise which the Council has undertaken, as detailed at paragraph 31 above, the Commissioner also accepts that the Council's estimate that around 400,000 transactions will require further work to obtain sufficient detail to respond to the request is reasonable. The Commissioner is also accepts the Council's position that hard copies of individual invoices will need to be retrieved in order to obtain the relevant detail relating to some transactions. In view of this, the Commissioner is satisfied that even if it took an average of just one minute to review each of these 400,000 transactions, it would significantly exceed the cost limit (6666 hours). 370 transactions would need to be reviewed each minute in order to bring this stage of the process, in isolation, within the cost limit. This does not take into

account the additional time associated with compiling the original list of 2 millions transactions and identifying those payments which need further review (which the Council has been unable to quantify due to the scale of the task), retrieving expenditure information relating to individual schools (estimated at 41 hours) or retrieving paper documentation, where necessary (estimated at 1 minute for each invoice).

42. Due to the nature of the information requested by the complainant and the way in which it is recorded, it is the Commissioner's view that the Council has provided adequate explanations – as referred to above – to demonstrate that it would exceed the appropriate limit to locate, retrieve and extract the requested information. The conclusion of the Commissioner is, therefore, that section 12(1) was appropriately applied by the Council and that it was not obliged to comply with the request.

Procedural Requirements

Section 16 – Advice and assistance

43. Section 16(1) of the Act provides an obligation for a public authority to provide advice and assistance to a person making a request, so far as it would be reasonable to do so.
44. The Code of Practice issued under section 45 of the Act (the Code) provides guidance on good practice to public authorities in carrying out their duties in relation to the Act. The Code includes suggestions in relation to the nature of the advice and assistance that public authorities should provide in relation to section 16 of the Act. Paragraph 14 of the Code recommends that:

"14. Where an authority is not obliged to comply with a request for information because, under section 12(1) and regulations made under section 12, the cost of complying would exceed the "appropriate limit" (i.e. cost threshold) the authority should consider providing an indication of what, if any, information could be provided within the cost ceiling. The authority should also consider advising the applicant that by reforming or re-focussing their request, information may be able to be supplied for a lower, or no, fee."
45. The Commissioner notes that, in its refusal letter of 12 October 2010 and its internal review response of 3 November 2010, the Council made the complainant aware of its obligation under the Act to provide advice and assistance and suggested the request be refined or reduced to more manageable proportions so that it reduced the aggregate cost to within the appropriate limit.
46. The Commissioner notes that the complainant did not engage with the Council in relation to its suggestion that he redefine his request and

simply repeated that the information he sought was a low level expenditure report for each department, rather than generalised summaries.

The Decision

47. The Commissioner's decision is that the public authority dealt with the following elements of the request for information in accordance with the Act.

- It correctly applied section 12(1) to the request for information.

Steps Required

48. The Commissioner requires no steps to be taken by the public authority.

Right of Appeal

49. 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,
Arnhem House,
31, Waterloo Way,
LEICESTER,
LE1 8DJ

Tel: 0300 1234504

Fax: 0116 249 4253

Email: informationtribunal@tribunals.gsi.gov.uk.

Website: www.informationtribunal.gov.uk

50. 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.

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

Dated the 13th day of June 2011

Signed

**Anne Jones
Assistant Commissioner
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF**

Legal Annex

General Right of Access

Section 1(1) provides that -

"Any person making a request for information to a public authority is entitled

–

(a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and

(b) if that is the case, to have that information communicated to him."

Time for Compliance

Section 10(1) provides that –

"Subject to subsections (2) and (3), a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt."

Exemption where cost of compliance exceeds appropriate limit

Section 12(1) provides 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."

Section 12(2) provides that –

"Subsection (1) does not exempt the public authority from its obligation to comply with paragraph (a) of section 1(1) unless the estimated cost of complying with that paragraph alone would exceed the appropriate limit."

Section 12(3) provides that –

"In subsections (1) and (2) "the appropriate limit" means such amount as may be prescribed, and different amounts may be prescribed in relation to different cases."

Section 12(4) provides that –

“The secretary of State may by regulations provide that, in such circumstances as may be prescribed, where two or more requests for information are made to a public authority –

(a) by one person, or

(b) by different persons who appear to the public authority to be acting in concert or in pursuance of a campaign,

the estimated cost of complying with any of the requests is to be taken to be the estimated total cost of complying with all of them.”

Section 12(5) – provides that

“The Secretary of State may by regulations make provision for the purposes of this section as to the costs to be estimated and as to the manner in which they are estimated.”

Duty to provide Advice and Assistance

Section 16(1) provides that -

“It shall be the duty of a public authority to provide advice and assistance, so far as it would be reasonable to expect the authority to do so, to persons who propose to make, or have made, requests for information to it.”

Section 16(2) provides that –

“Any public authority which, in relation to the provision of advice and assistance in any case, conforms with the code of practice under section 45 is to be taken to comply with the duty imposed by subsection (1) in relation to that case.

Refusal of Request

Section 17(1) provides that -

“A public authority which, in relation to any request for information, is to any extent relying on a claim that any provision of Part II relating to the duty to confirm or deny is relevant to the request or on a claim that information is exempt information must, within the time for complying with section 1(1), give the applicant a notice which -

(c) states that fact,

(d) specifies the exemption in question, and

(e) states (if that would not otherwise be apparent) why the exemption applies."

Section 17(5) provides that –

"A public authority which, in relation to any request for information, is relying on a claim that section 12 or 14 applies must, within the time for complying with section 1(1), give the applicant a notice stating that fact."