

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 3 July 2012

Public Authority: Office of Fair Trading
Address: Fleetbank House
2-6 Salisbury Square
London
EC4Y 8JX

Decision (including any steps ordered)

1. The complainant has requested information concerning the criteria for giving assistance to callers of the Consumer Direct helpline.
2. The Commissioner's decision is that the Office of Fair Trading (the OFT) has correctly applied section 12 of the FOIA to this request for information.

Background

3. Consumer Direct (CD) is a government funded telephone and online advice service which provides consumer advice and information. CD is managed by OFT and delivered in partnership with local authority Trading Standards Services (TSS). Each TSS has an agreed protocol with CD which outlines the level of assistance they are able to offer to consumers and the grounds on which they will accept a referral from CD.

Request and response

4. On 16 May 2011, the complainant wrote to the OFT and requested information in the following terms:

'the list of criteria and status of this criteria for each local authority that dictates what assistance is given to callers to the Consumer Direct helpline.'

5. The OFT responded on 8 June 2011. It explained that providing the requested information would exceed the cost limit of £600. It therefore refused the request under section 12 of the FOIA. The OFT suggested that the complainant could narrow his request to ask for information about a individual TSS referral protocol or he could ask the individual TSS concerned for its referral protocol.
6. Following an internal review the OFT wrote to the complainant on 23 September 2012. It explained that it had carried out a trialling exercise and that it still considered that it would exceed the cost limit to provide the required information. OFT also considered that it had complied with its duty under section 16 of the FOIA in suggesting that the complainant should narrow his request or try alternative available sources of the requested information.

Scope of the case

7. The complainant contacted the Commissioner to complain about the way his request for information had been handled. He does not accept that the OFT was correct to apply section 12 to this request as he does not accept the methods used by the OFT to extract the information are the most efficient methods possible.
8. The Commissioner considers that the scope of this case is concerned with the application of section 12 to this information request.

Reasons for decision

9. Section 12 of the FOIA states that a public authority does not have to comply with a request for information if it estimates that the cost of complying with the request would exceed the appropriate limit.
10. The appropriate limit is set out in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004. In performing its calculation, a public authority may take into account the cost of determining whether it holds the requested information plus the cost of locating, retrieving and extracting it. For public authorities such as the OFT, this cost limit is currently set at £600 and equates to 24 hours of work at £25 per hour.
11. The OFT has explained that there are approximately 200 local authority TSS protocols in total. These are held on a web based system called the Knowledge Base (the KB). In addition to holding the TSS protocols, the

KB holds other useful information for advisers such as briefing notes and training material.

12. The system is designed to enable advisers to handle calls quickly and efficiently. During a call it therefore shows the advisers the protocol information for a relevant TSS on a screen. It is not a database but a web based reference tool and the system is not designed to provide hard copy printed material as there is no need for an adviser to have a printed copy of a protocol.
13. The complainant explained to OFT that when he rang CD it took an adviser 8 seconds to locate a council on the database and a few minutes to read the criteria off the screen. He therefore asked the OFT if it had considered reading the information from a screen to collect the required data. For the reasons given above, OFT did not consider that this was possible. It explained that in order to provide the requested information to the complainant it would be necessary for each separate protocol to be located, downloaded and presented in an understandable format.
14. To print the protocols, the OFT has identified the steps that would have to be taken:
 - i. KB is searched for the relevant TSS protocol;
 - ii. TSS protocol is exported from the KB into Microsoft Excel (a printable format);
 - iii. Excel copy of TSS protocol is reviewed and edited to retrieve only the requested information;
 - iv. Excel copies of TSS protocols are collated into a single document and printed.

Stages (i) to (iv) are repeated for each TSS protocol.

15. OFT initially estimated that steps (i) to (iv) in this process would take approximately 10 minutes. It explained that this 10 minute process must be repeated for each TSS protocol.
16. The OFT's initial estimate was that it would therefore take 200 x 10 minutes to provide the requested information. This equates to 33.33 hours.
17. Following its initial response, the OFT explained that its IT team had clarified that it was possible to export all of the TSS protocols for one CD region into Excel at the same time. OFT therefore conducted a sample extraction of information for one region (the East Midlands) which contains a total of 9 protocols.

18. OFT has since explained to the Commissioner that there are 11 regions and these have a varying number of TSS which may be less than 10 or more than 50 in some cases.
19. This process confirmed the OFT's initial estimate that producing the requested information in hard copy format would take more than 24 hours. It explained that it took 10 minutes per protocol to export the information, tidy the extract into a legible format and redact any personal information. This confirmed the original estimate, even though the method of extracting the protocols was different.
20. The OFT clarified that it could not extract all the protocols in one operation but that it could extract them electronically in an aggregated form on a regional basis. It explained that the time consuming part of the process was the further extraction and collation of the requested information from the protocols.
21. The OFT has also confirmed that the requested information is embedded within a variety of other materials and it is not technically possible to use an automated or routine process to identify the information so that it can be automatically extracted.
22. The OFT has explained that although the KB system does allow for individual pages to be printed, it does not allow for numerous pages to be printed at once. The OFT therefore does not consider the complainant's suggestion that the pages should be printed to save time is an option.
23. As part of his investigation, the Commissioner asked the OFT to consider providing all the exported protocol information without removing any data or extracting the required information from it. The OFT explained that it considered it would be inappropriate for it to assume that the complainant would be content with all the protocol information it held and that its duty only extended to supplying the information requested.
24. It also confirmed that, contrary to its earlier explanation, it had not included time to redact withheld information in its estimate but that it had included the time taken to extract the requested information from the exported protocol data. It conveyed its apologies to the complainant for giving him the impression (before the internal review) that the time taken to redact personal data was significant in its calculation.
25. The OFT further clarified the breakdown of time taken for each of the four identified stages when each individual protocol was extracted:
 - Step (i): KB is searched for the relevant TSS protocol
1-2 minutes

- Step (ii): TSS protocol is exported from the KB into Microsoft Excel (a printable format)
2 minutes
- Step (iii): Excel copy of TSS protocol is reviewed to retrieve only the requested information
5 minutes
- Step (iv): Excel copies of TSS protocols are collated into a single document and printed
1-2 minutes
26. The OFT confirmed that it would save time at step (i) if it searched for the protocols on a region by region basis. It also explained that steps (i) and (ii) would be carried out once for each region irrespective of how many protocols there were in that region. However it explained that the system may crash if required to search for a large number of protocols and that some time had been built into the estimate at step (i) to account for this.
27. The OFT also explained that although it could save some time by retrieving all the protocols together for each region, the extraction of the individual protocols would take more time at step (ii) when the information was being exported. This might also cause the system to crash.
28. The Commissioner does not accept that system crash time should be built into the estimate; however he is satisfied that the OFT has performed an example search and extraction for one region of 9 protocols and he is satisfied that it took OFT 10 minutes per protocol to extract the information requested.
29. The Commissioner's guidance concerning the cost of compliance¹ states what activities a public authority may charge for:
- determining whether the public authority holds the information;
 - locating the information, or a document containing it;

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http://www.ico.gov.uk/for_organisations/guidance_index/~media/documents/library/Freedom_of_Information/Detailed_specialist_guides/costs_of_compliance_exceeds_appropriate_limit.ashx

- retrieving the information, or a document containing it; and
 - extracting the information from a document containing it.
30. The Commissioner is therefore not satisfied that the OFT is entitled to include step (iv) in its calculations as collation and printing cannot be included in the chargeable activities.
 31. This leaves an estimate of between 8 and 9 minutes per protocol when extracted individually. However the OFT has confirmed it can save some time at step (i) and (ii) by searching for and exporting the protocols on a region by region basis. This was undertaken as a sample exercise for the east Midlands which has a total of 9 protocols.
 32. The OFT has explained that this sample extraction demonstrated that the total time involved per protocol was the same as the initial estimate per protocol (10 minutes). As step (iii) is not affected by the search according to regions, this step took 5 minutes for both estimates. This equates to $(5 \times 200 = 1000)$ minutes for all the protocols. Step (iii) therefore accounts for 16.7 hours.
 33. Steps (i) to (ii) took between 3-4 minutes per protocol when each individual protocol was extracted. This results in an estimate of between 10 hours and 13.3 hours for steps (i) and (ii) when each protocol is extracted individually.
 34. The Commissioner understands that although extraction by region alters the estimate for step (i) and (ii), the total for both steps took 3-4 minutes per protocol when the sample region contained 9 protocols.
 35. Even if the first step could be reduced by searching for all the protocols for each region in one operation, the Commissioner is satisfied that the bulk of the time involved is taken up with exporting the protocols at step (ii) and extracting the required information at step (iii).
 36. If step (i) and (ii) take a total of 3 minutes per protocol whichever approach is taken, it is immaterial whether step (i) takes 30 seconds and step (ii) takes 2.5 minutes per protocol when extracted on a region by region basis. The total time per protocol remains at the very least 8 minutes: 3 minutes for step (i) and (ii) and 5 minutes for step (iii). This gives a total of 26.7 hours (10 hours plus 16.7 hours).
 37. The Commissioner is therefore satisfied that the OFT's estimate is reasonable.
 38. In view of the above, the conclusion of the Commissioner is that the OFT was correct to refuse this request under section 12 of the FOIA.

39. The Commissioner is also satisfied that the OFT has provided sufficient advice and assistance to the complainant in accordance with its obligations under section 16 of the FOIA. It has explained how long it would take to extract the information for one protocol and suggested that the complainant might refine his request to identify which protocols he requires.

Right of appeal

40. 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: 0116 249 4253

Email: informationtribunal@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

41. 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.
42. 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

Rachael Cragg
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