

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 14 June 2012

Public Authority: The Governing Body of Birmingham
Metropolitan College

Address: Jennens Road
Birmingham
West Midlands
B4 7PS

Decision (including any steps ordered)

1. The complainant has requested information relating to staffing and payment of student fees. Birmingham Metropolitan College explained that section 12 was applicable in this case as it would exceed the £450 cost limit to comply with the request in full. It also said that section 43(2) applied to some of the information requested.
2. The Commissioner considers that section 12 is applicable in this case as it would exceed the £450 cost limit to comply with this request in its entirety.
3. The Commissioner requires no steps to be taken.

Request and response

4. On 31 October 2011, the complainant wrote to the College and requested information in the following terms:

"Firstly, am I right in assuming that the documentation that you sent to me (copy attached), lists the number of students attending courses on average for two days a week or more for the academic year 2007/2008, and payment was made on this basis?

Secondly, how much and when was Care First Ltd paid for ALS for the same academic year?"

Thirdly, were the Care First staffing costs relating to this provision, for the same period, paid directly to Care First Ltd or a staff Agency?

Finally, are the staff running the same type of provision in-house at Birmingham Metropolitan College, employed by the College or are they trained, managed and supplied by an outside Staff Agency? I am reliably informed that if an agency were able to supply staff trained to deliver to this particular client group then the " FEFC were in agreement to the arrangement as the staff were specialist and our involvement enabled widening participation."

5. The College responded on 25 November 2011. It provided the complainant with some information in response to part 1 of the request but refused to respond to parts 2, 3 and 4 of the request as it said that the College either does not have this information, the information is not easily accessible or the information is commercially sensitive.
6. Following an internal review the College wrote to the complainant on 17 January 2012. It stated that in relation to part 1 of the request, to provide further detailed information would take approximately 20 hours at a cost of £500 (which would exceed the cost limit under section 12 FOIA). In relation to part 2 of the request it said that this would take around four hours to respond to at a cost of £100. If this is aggregated with part 1 of the request this would add further to the overall cost so again would exceed the cost limit under section 12 FOIA. In relation to part 3 of the request it said this information was commercially sensitive. In relation to part 4 of the request it provided a response.

Scope of the case

7. The complainant contacted the Commissioner to complain about the way his request for information had been handled.
8. The Commissioner will consider whether the College was correct to apply section 12 or section 43(2) in this case.

Reasons for decision

9. Section 12(1) of 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. A public authority can charge a maximum of £25 per hour for work undertaken to comply with a request which amounts to 18 hours work in accordance with the appropriate limit set out above. If an authority estimates that complying with a request may cost more than the cost limit, it can consider the time taken 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.
11. To determine whether the College applied section 12 of the FOIA correctly the Commissioner has considered the submissions provided by the College on 4 May 2012.
12. The College first explained that it had tried to deal with the request outside of FOIA as it wanted to try and provide the complainant with information which would go some way to answering the request, even though it felt that to respond in full would be costly and timely. As the complainant was dissatisfied with the level of information provided, it formally applied section 12 as well as section 43(2).
13. As background the College explained that it has over 35,000 learners each year and whilst very recently a more computerised method of storing student data had been introduced, physical personal folders were and continue to be held on each student which are archived as and when a student comes to the end of their studies with the College. It also explained that back in 2007/2008 a less sophisticated method of marking registers was used whereas more efficient, computerised models are now used. Additionally it explained that the College has three main campuses across Birmingham and Sutton Coldfield as well as a number of satellite outreach centres with archive storage at each of the campuses and elsewhere given the volume of information that it generates. It said that given that the information requested relates back to 2007, the time lapse between now and then and a significant merger between Matthew Boulton College and Sutton Coldfield College means that it is unknown whether some of the information requested exists and therefore determining whether information is held would have a significant time and therefore cost implication.

14. In relation to point 1 of the request, the College explained that it provided detailed information in relation to students attending specific courses in the academic year 2007/2008, whether part time or full time and whether payment was made to the training provider on that basis. However it said that it was unable to provide detailed information in relation to actual payment for part time students without first ascertaining the actual attendance of part time students by locating and reviewing attendance registers (if they were completed and archived). It provided the Commissioner with a breakdown of the cost and time implications of providing this more detailed information.
15. The College explained that it would first have to determine whether the information was held. It explained that the Information Officer/Data Management Team would need to liaise with managers/training providers in respect of the relevant courses to find out if attendance registers are held and if so where. It estimated that this work would take 2 hours at a cost of £50.
16. It would then need to locate the information if it is held. It said that the Data Management Team would need to locate any information which is held in the College archives and this would take 6 hours at a cost of £150.
17. It explained that it would then need to retrieve the information or the document containing it. This would require the Data Management Team to retrieve the attendance registers within files located in the archive. It said that this would take 6 hours at a cost of £150.
18. When retrieved it would then need to extract the information from the document containing it. It said that the Data Management Team would need to liaise with training providers to extract relevant attendance information and would then need to carry out a matching exercise with regards to actual student attendance of students and actual payments made to the training provider. It indicated that this task would take 6 hours at a cost of £150.
19. The College therefore considers that it would take 20 hours at a cost of £500 to comply with part 1 of the request.
20. In relation to point 2 of the request, the College explained that the complainant asked how much and when was Care First Ltd paid for additional learning support for the same academic year (2007/2008). The College explained that for the same reasons as part 1 above, the information is not easily available and there would again be a cost involved in relation to staff time and resources.

21. The College explained that it would first need to determine whether the information is held. The information officer/Data Management Team would need to liaise with managers and tutors in respect of the relevant courses to find out if the attendance registers are held and if so where. They would also need to find out which students were receiving additional learning support and indicated that this would take 1 hour at a cost of £25.
22. It explained that locating and retrieving the information would require the same steps as that required in relation to part 1 of the request. It confirmed therefore that there would be no further cost/time implications in relation to these elements
23. It would then need to extract the information from the documents containing it. This required the Data Management Team to liaise with the training providers to extract relevant attendance information. It said it would need to carry out a matching exercise with regards to actual attendance of students receiving additional learning support and would then need to rationalise this with the College database to see when and how much the training provider was paid. It indicated that this work would take 3 hours at a cost of £75.
24. The College therefore considers that it would take a further 4 hours at a cost of a further £100 to comply with part 2 of the request.
25. The College did provide the Commissioner with some further breakdown in relation to the tasks required to comply with these requests, however the Commissioner has not included the further breakdown within this Notice.
26. The Commissioner notes that in this case the complainant did make four requests within a single item of correspondence. Section 12(4) provides that, in certain circumstances set out in the Regulations, requests can be aggregated so that 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. Regulation 5 of the Regulations sets out the relevant condition and provides that multiple requests can be aggregated in circumstances where the two or more requests relate to any extent, to the same or similar information. Although this test is very broad, it is possible that one or more requests may not meet this test and the Commissioner has therefore considered whether he is satisfied that the requests relate to the same or similar information. In this case the Commissioner is satisfied that all four requests relate to the same or similar information and therefore can be aggregated. However the Commissioner is aware that the College did respond to part 4 of the request and did provide the complainant with some information relevant to part 1 of the request.

27. In this case it would take 24 hours to comply with parts 1 and 2 of the request at a cost of £600. This would exceed the £450 cost limit and therefore section 12 was correctly applied in this case. As it would exceed the cost limit to comply with parts 1 and 2 of the request, the College was not obliged to comply with any part of the request.
28. As the Commissioner has found that section 12 was correctly applied in this case he has not gone on to consider the application of section 43(2) any further.

Right of appeal

29. 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

30. 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.
31. 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

**Pamela Clements
Group Manager, Complaints Resolution
Information Commissioner's Office
Wycliffe House
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SK9 5AF**