

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 14 August 2012

**Public Authority:** Coventry City Council

**Address:** Earl Street  
Coventry  
CV1 5RR

#### Decision (including any steps ordered)

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1. The complainant requested information from Coventry City Council ("the council") relating to outsourcing to solicitors or barristers. The council relied on section 12(1) of the Freedom of Information Act 2000 ("the FOIA"), the exclusion relating to costs.
2. The Commissioner's decision is that the council breached section 1(1), 10(1) and 16(1) of the FOIA by failing to provide advice and assistance and the information it was able to obtain by working up to the appropriate limit as requested by the complainant.
3. The Commissioner does not require any steps to be taken.

#### Request and response

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4. On 16 January 2011, the complainant requested information from the council in the following terms:

*"I would like to know how much the Council has spent outsourcing to either Barristers Chambers or Solicitors at Employment Tribunals for all Council Staff (including Teaching Staff). Any combination of those below, between 1<sup>st</sup> August 2000 and the 31 October 2010:*

- 1) *For constructive dismissal*
- 2) *Unfair dismissal*
- 3) *One (or more) of the various discrimination claims and/or under the Protection from Harassment Act*
- 4) *Public Interest Disclosure Act 1998*
- 5) *Any other Employment issues, I may have omitted.*

*Please name the Solicitors/Barristers that the Council have outsourced to: For example, 2010 Number Name.*

*I would request that you include VAT in the figures. Please provide the figures in the following format e.g. 2006 – NUMBER HERE; 2007 – NUMBER HERE; 2008 – NUMBER HERE; 2010 – NUMBER HERE; etc, thus making it easier for one to read and to ensure there is [sic] no misunderstandings.*

*Please also send this information as 'calendar years'.*

*Please note that I do not seek or require any personal information such as names and addresses – only the total figures”.*

5. On 8 February 2011, the council wrote to inform the complainant about a delay.
6. The complainant complained about the council's handling of the matter on 23 February 2011 and asked it to conduct an internal review.
7. The council responded on 4 March 2011. It said that compliance with the request would exceed the appropriate limit under the Freedom of Information Act 2000 ("the FOIA") and therefore section 12 is engaged. It invited the complainant to narrow her request.
8. The complainant replied on 21 March 2011 and asked the council to provide whatever information it could within the appropriate limit.
9. The council wrote further on 28 March 2011. It said that it remained of the view that it could not respond to the request, even in light of the complainant's email of 21 March 2011.
10. The council and the complainant continued to correspond about the duty to provide advice and assistance until 8 March 2012. During this time, the complainant indicated that she would like the council to search a date range from 2010 working backwards until the appropriate limit was reached. The council continued to refuse to undertake this work.

## **Scope of the case**

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11. The complainant contacted the Commissioner to complain about the way her request for information had been handled. She specifically asked the Commissioner to consider whether the council had provided reasonable advice and assistance in accordance with its obligation under section 16 of the FOIA.

## Reasons for decision

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### Section 16: Duty to provide reasonable advice and assistance

12. Section 12 of the FOIA 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. For local authorities, this is 18 hours at a rate of £25 per hour.
13. If the authority wishes to rely on section 12, it then needs to consider its duty to provide reasonable advice and assistance under section 16 of the FOIA. The Code of Practice under section 45 of the FOIA states the following on the subject:

*“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-focusing their request, information may be able to be supplied for a lower or no fee”.*
14. In this case, the complainant indicated that she would accept the application of section 12 if the council provided the information that it could within the appropriate limit. The council refused to do this upon request.
15. When the Commissioner contacted the council about the matter, the council told the Commissioner that it was able to provide information within the appropriate limit. It provided this information to the complainant during the Commissioner's investigation.

### Procedural issues

16. The Commissioner considers that the council breached section 1(1)(b), 10(1) and 16(1) of the FOIA by failing to provide reasonable advice and assistance and the information that it was able to obtain by working up to the appropriate limit in this case. For clarity, section 1(1)(b) and 10(1) provide a general obligation to disclose information within 20 working days.

## Right of Appeal

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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: 0300 1234504

Fax: 0116 249 4253

Email: [informationtribunal@hmcts.gsi.gov.uk](mailto:informationtribunal@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm](http://www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm)

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** .....

**Andrew White**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**