

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 19 February 2013

Public Authority: Caerphilly County Borough Council

Address: Penalta House
Tredomen Park
Ystrad Mynach
Hengoed
CF82 7PG

Decision (including any steps ordered)

1. The complainant requested a list of all services offered by Caerphilly County Borough Council which have a charge attached, by individual financial year from 2008 to 2013. The Council refused to provide the information citing section 12 of the Freedom of Information Act 2000 ('the Act') on the basis that the cost of complying would exceed the appropriate limit.
2. The Commissioner's decision is that Caerphilly County Borough Council has correctly applied section 12 in this case.
3. The Commissioner has also found a breach of section 16 however he requires no steps to be taken.

Request and response

4. On 28 March 2012, the complainant wrote to the Council and requested information in the following terms:

*"1. I should like a list of **all** [complainant's emphasis] services offered by Caerphilly CBC which have a charge attached?"*

2.I should like a list by financial years i.e. 2008-09, 2009-10. 2010-11, 2011-12 and for 2012-13"

5. The Council responded on 23 April 2012. It stated that it could not supply the requested information by virtue of section 12 of the Act. It did however provide a link to its website containing some of the fees currently and previously charged by the Council.
6. Following an internal review the Council wrote to the complainant on 22 May 2012 upholding its original decision to refuse to comply with the request on the basis of section 12 of the Act.

Scope of the case

7. The complainant contacted the Commissioner on 15 June 2012 to complain about the way his request for information had been handled.

Reasons for decision

Section 12

8. Section 12 of the 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."

9. 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. Under these Regulations, a public authority can charge a maximum of £25 per hour for work undertaken to comply with a request. This equates to 18 hours work in accordance with the appropriate limit set out above.
10. A public authority is only required to provide a reasonable estimate or breakdown of costs and in putting together its estimate it can take the following processes into consideration:
 - (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. In his assessment of whether the Council has correctly relied on section 12 of the Act, the Commissioner has considered the submissions provided by the Council on 4 December 2012 as well as the response and internal review sent to the complainant.
12. The Council has provided a spread sheet of the estimated time taken to determine, locate, retrieve and extract the necessary information by 12 individual service areas for each of the financial years from 2008 to 2013. It has then totalled each of these areas to find an estimated total time/cost for each of the financial years. Adding each of these years together gives an estimated total time of 130 hours 40 minutes to comply with the whole request.
13. The Commissioner has therefore considered whether the breakdown of figures appears reasonable and in doing this he has considered the 12 individual service areas highlighted by the Council.

Engineering

14. The Council has divided the information it holds in relation to Engineering into the Network Operations and Highways departments. It has confirmed that for Network Operations it requires annual licences, Section 50 Agreements, Section 171 Agreements and Recharges.
15. It has estimated that retrieving and extracting the information in respect of licences from the relevant database for one tax year would take approximately 15 minutes per record and that it would need to consider one record, giving a total of 15 minutes.
16. Retrieving and extracting the information in respect of Section 50 Agreements and Section 171 Agreements from their respective databases for one tax year is estimated to take a total of 30 minutes per record with a total of one record per type of Agreement to consider. (One hour in total per tax year).
17. Recharges are estimated to take 45 minutes per record with a total of one record to consider per tax year. The combined total for Network Operations is therefore 2 hours per tax year.
18. The Council has estimated that retrieving and extracting the information in respect of Highways/NCS from the relevant database would take approximately 30 minutes per record, it has confirmed that it would need to consider one record. This gives a total of 30 minutes per year and a total for the whole service area of 2 hours 30 minutes per tax year.

Public Protection

19. Within the Public Protection Service Area the Council has identified that it would need to obtain data from the Catering, Licensing, Environmental Health and Registrars departments.
20. It has estimated that obtaining the information in respect of Catering would take 10 minutes per record with a total of 8 records to be considered, therefore totalling 1 hour 20 minutes per tax year. Licensing information is held in both hard copy format and on the Network folder. It has estimated that it would take 5 minutes per record with a total of 6 records to consider, totalling 30 minutes per tax year. Environmental Health is held in the Network Report and the Council has estimated that it will take 30 minutes per record with a total of 2 records to consider, therefore totalling 1 hour per tax year. Finally, it has estimated that providing the information for the Registrars department would take 10 minutes per record with a total of 1 record per tax year. It would therefore take an estimated 4 hours 40 minutes for the Public Protection Service Area as a whole per tax year.

HR and payroll

21. Within this service area the Council has identified HR and Payroll and Health and Safety as distinct departments. It has estimated that it would take approximately 30 minutes per record for the information from HR and Payroll with a total of 3 records to consider giving a total per tax year of 1 hour 30 minutes. With regard to Health and Safety it has estimated 20 minutes per record with a total of 2 records to be considered, totalling 40 minutes per tax year. The combined figures per tax year for HR and Payroll are therefore estimated at 2 hours 10 minutes.

Housing

22. The Council has estimated that it would take it one minute per record with a total of 30 records per tax year to provide the information in respect of its Housing Service Area. This would give a total of 30 minutes per tax year.

Corporate Finance

23. Corporate Finance has been divided into the Accounts and Procurement departments. Within the Accounts Department the Council has identified information in respect of the Purchase Ledger SLA with schools and the Accountancy SLA with ESIS. For both ledgers it has estimated that it would take 15 minutes per record from a combination of hardcopy and spread sheet file with a total of 1 record per ledger to consider, therefore giving a total of 30 minutes per tax year.

24. The Council has identified two sources of relevant information within the Procurement Department. The Procurement SLA with schools is estimated to take 15 minutes per record with a total of one record to consider and the Contacts for External Charges is estimated to take 5 minutes per record with a total of 6 records to be considered, giving a total of 30 minutes. The whole Procurement Department would therefore be approximately 45 minutes per tax year.
25. The combined totals for the Accounts and Procurement Departments gives an estimated time of 1 hour 15 minutes per tax year for the whole Corporate Finance Service Area.

Public Services

26. Under this service area the Council would need to obtain details of the charges from the Commercial Waste Officer for each of the tax years from hard copy sources and email. This varies by tax year. The Council has followed its same formula of estimating how long it would take to consider one record multiplied by the total number of records needing to be considered. For the current tax year the Council has estimated that it would take a total of 25 minutes. For 2011-2012 it is estimated it would take 35 minutes and 40 minutes for each of the remaining tax years.
27. It has also estimated that it would take an additional 40 minutes for the current tax year to obtain information from its database and spread sheets. It cannot however, provide this information for any of the previous tax years.
28. The Council has also estimated a further 1 hour and 30 minutes for each tax year from 2009 and 7 hours 30 minutes for the tax year from 2008-2009.
29. The total figures for each tax year under the Public Services vary from 2 hours 45 minutes for the current tax year, 2 hours 5 minutes for 2011-2012, 2 hours 10 minutes for the tax years 2010-2011 and 2009-2010 and 8 hours 10 minutes for the tax year 2008-2009.

Planning

30. The Council has divided the Planning Service Area into the following 10 departments. Planning, Land charges, Park Cwm Darren, Countryside, Blackwood Miners' Institute, Cwmcarn Scenic Drive, Llancaiach Fawr, Visit Caerphilly, Winding House and Economic Development. It has followed the usual pattern of breaking down the information by estimated time per record and then identifying the approximate number of records to consider. The information is from a range of electronic and hard copy sources. The estimated time for the whole service area for the current tax year is 5 hours 20 minutes. The figure for each of the

previous tax years is 4 hours 55 minutes as it was not possible to find information in respect of either the Planning department or Land charges for anything other than the current tax year.

Legal

31. The Council has identified relevant information held in hard copy format. It has estimated that it would take 5 minutes per record, with a total of 10 records to be considered, totalling 50 minutes per tax year.

ICT

32. The estimated figures from ICT are taken from the Contracts SLA's and are stored in hard copy format. The Council has estimated that it would take 20 minutes per record with a total of 4 records to consider, giving a total for each tax year of 1 hour 20 minutes.

Education (all 3 service areas)

33. The Council would need to locate and extract individual school SLA Agreements and Charges. It has divided the records into 4 areas with varying times per record and various numbers of records to consider. The total of each of these activities equates to 2 hours 10 minutes per tax year.

Social Services (all 3 service areas)

34. Within the Social Services area there is one database holding relevant information. The Council has estimated that it would take 45 minutes per record with a total of one record to consider, therefore giving a total for each tax of 45 minutes.
35. The Commissioner considers that the estimates given for each service area are reasonable and that even providing the information for one tax year would exceed the appropriate limit. Additionally, the 130 hours 40 minutes estimate arrived at by adding together the figures for each of the tax years is far in excess of the appropriate limit. The Commissioner therefore considers that section 12 was correctly applied to this request.

Section 16 – Advice and assistance

36. When relying on section 12 of the Act, a public authority is required under section 16 of the Act to offer the applicant advice and assistance with regard to narrowing the request down with the aim that the refined request will not exceed the appropriate limit. The Commissioner notes that the Council failed to offer advice and assistance in both its refusal notice and its internal review and would remind the Council of its obligations under section 16 of the Act.

37. Ordinarily, the Commissioner would include steps in the decision notice instructing the public authority to contact the complainant with a view to offering appropriate advice and assistance under section 16 of the Act. However, the Commissioner notes that in this particular case the complainant had already submitted a refined request by the time the Council had completed its internal review of this request. The Commissioner does not therefore consider that it is appropriate to issue steps in this case.

Other matters

38. The Commissioner notes that the Council did not provide the complainant with any breakdown of the estimated costs of complying with the request. Although the Act does not require a public authority to provide a costs breakdown when refusing a request under section 12, the Commissioner considers it is good practice to do so.

Right of appeal

39. 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

40. 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.
41. 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

Anne Jones
Assistant Commissioner
Information Commissioner's Office
Wycliffe House
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