

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 26 February 2013

**Public Authority:** Caerphilly County Borough Council  
**Address:** Penalta House  
Tredomen Park  
Ystrad Mynach  
Hengoed  
CF82 7PG

#### Decision (including any steps ordered)

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1. The complainant requested a list of all services offered by Caerphilly County Borough Council ('the Council') which have a charge attached for the financial year 2012 to 2013. The Council aggregated this request with five other requests for the same information but different tax years and subsequently refused it on the basis of section 12(1) of the Freedom of Information Act 2000 ('the FOIA'). The Council had recently responded to a previous request from the complainant for the same information for the tax years from 2008-2009 to 2012-2013 which it had refused on the basis of section 12(1) and which is the subject of decision notice FS50453149.
2. The Commissioner's decision is that Caerphilly County Borough Council was correct to rely on Regulation 5 of the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 ('the Fees Regulations') and to cite section 12(1) of the FOIA.
3. The Commissioner requires no steps to be taken.

#### Request and response

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4. On 23 April 2012, the complainant wrote to the Council and requested the following information:

*"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 the list by financial year 2012-2013."*

5. The Council responded on 29 May 2012. It confirmed that it had previously refused a request for this information over a broader time period on the basis of section 12(1) of the FOIA. The Council further informed the complainant that it had received a number of requests for the same information broken up into smaller time periods from different individuals and that it considers that these individuals were working together. The Council informed the complainant that it had therefore aggregated these requests under Regulation 5 of the Fees Regulations and was refusing it on the basis of section 12(1) of the FOIA.
6. Following an internal review the Council wrote to the complainant on 27 June 2012. The review upheld the original decision to aggregate the request and to cite section 12(1) of the FOIA.

### **Scope of the case**

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7. The complainant contacted the Commissioner on 29 August 2012 to complain about the way his request for information had been handled. He stated that he finds it illogical that a large public body has no idea of the service charge made to members of the public.
8. As the Commissioner has already considered under case reference FS50453149 whether the cost of compliance exceeds the appropriate limit as laid down in the Fees Regulations, the scope of the Commissioner's investigation in this case is to consider whether the Council was correct to aggregate the request.

### **Reasons for decision**

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#### **Substantive procedural matters**

#### **Section 12 – the cost of compliance exceeds the appropriate limit**

9. Section 12 of the FOIA provides that a public authority is not obliged to comply with a request for information if it estimates that the cost of complying with the request would exceed the appropriate cost limit prescribed by the Secretary of State in the Fees Regulations.
10. The appropriate limit is prescribed in the Fees Regulations as £600 for public authorities listed in Part 1 of Schedule 1 to the FOIA, and £450 for any other public authority. This is estimated at £25 an hour. The appropriate cost limit for the Council is £450 as it is not listed in Part 1 of Schedule 1 to the FOIA.

11. Section 12(4)(b) of the Act provides that where two or more requests for information are made to a public authority by different persons who appear to be acting in concert or in pursuance of a campaign, the estimated cost of complying with any of these requests is to be taken to be the estimated total cost of complying with all of them. Regulation 5 of the Fees Regulations clarifies this further and states that two or more requests can be aggregated for the purpose of calculating costs if they are:
  - by one person, or by different persons who appear to the public authority to be acting in concert or in pursuance of a campaign;
  - for the same or similar information; and
  - the subsequent request is received by the public authority within 60 working days of the previous request.
12. The intention of this provision is to prevent individuals or organisations evading the appropriate limit by dividing a request into smaller parts.
13. The Commissioner has therefore considered each of the requests in this case to determine whether the Council was correct to aggregate the complainant's request in accordance with regulation 5 of the Fees Regulations and to subsequently refuse it on the basis of section 12(1) of the FOIA.
14. The Commissioner notes that the five other requests were made by different individuals. The Commissioner also notes that they were submitted between 23 April 2012 to 4 May 2012, with the complainant's request dated 23 April 2012 as stated in paragraph 4 of this notice.
15. The Commissioner has therefore considered whether the requests were for the same or similar information. Without citing each individual request, the Commissioner notes that without exception, the requests asked for a list of all services offered by Caerphilly County Borough Council which have a charge attached. Three of the requests asked for this information for the tax year 2009-2010, one for the tax year 2010-2011 and the remaining request for the tax year 2011-2012.
16. The Commissioner also notes that the complainant's request for an internal review did not challenge the Council's decision to aggregate the requests, neither was it the basis for his complaint to the Commissioner. Additionally, the complainant confirmed to the Commissioner on 28 September 2012 that he had asked friends/acquaintances to submit their requests on his behalf.

17. The Commissioner has therefore concluded that the Council were correct to aggregate the complainant's request with the five other requests.
18. As the Commissioner has already considered whether the total estimated cost of compliance with the broader request for the complainant's original request investigated under decision notice FS50453149, he is satisfied that the cost of compliance would exceed the appropriate limit and has not therefore gone on to consider this aspect of the complaint.

## Right of appeal

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19. 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)

20. 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.
21. 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**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**