

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 17 January 2023

**Public Authority:** Swansea Council  
**Address:** Civic Centre  
Oystermouth Road  
Swansea  
SA1 3SN

#### **Decision (including any steps ordered)**

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1. The complainant requested information from Swansea Council ("the public authority"). The Commissioner's decision is that the public authority was entitled to refuse to comply with the request in accordance with section 12(1) (cost limit) of FOIA. The Commissioner also finds that the public authority did not comply with its obligations under section 16 of FOIA to offer advice and assistance.
2. The Commissioner requires the public authority to take the following steps:
  - Provide advice and assistance to the complainant to assist in submitting a request falling within the appropriate limit.
3. The public authority must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of FOIA and may be dealt with as a contempt of court.

#### **Request and response**

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4. On 6 May 2022, the complainant made the following request for information to the public authority:

"For all subject access requests (SAR), namely requests made by or on behalf of an individual for the information which they are entitled to ask for under Article 15 of the UK GDPR, received since 25 May 2018, please provide:

a) The date a data subject (or someone acting on their behalf) asserted their right of access to the Council

b) The method of asserting the right of access, eg being kettled through Swansea Council's badly worded webform, verbally, by email, via a letter mailed or hand delivered to the Council, by social media etc.

c) The party making the request, ie an individual themselves, a relative, friend, solicitor, child advocacy service, charity, attorney etc. Please note I am not asking you to identify any individual or third party, just the relationship of the requestor to the data subject

d) The scope of the SAR, ie if limited to particular functional area(s) or set(s) of records within the Council, or whether the request encompassed all the processing of personal information performed by Swansea Council

e) The date on which Swansea Council fully complied with the SAR. By "fully" I mean that where a data subject had to lodge a complaint with the ICO or another supervisory authority, the final date that Swansea Council came into compliance

f) If Swansea Council has extended the time to respond (beyond the Controller's duty to the comply with a SAR without undue delay and at the latest within one month of receipt of the request or within one month of receipt of any information legitimately requested to confirm the requester's identity) then please identify the reason to seek such an extension

Please ensure that all data provided is in a reusable format at 3\* Level (or above), per the Welsh Government's Open Data Plan (2016)."

5. The public authority refused to provide the requested information citing section 12 (cost limit) of FOIA as its basis for doing so.

## Reasons for decision

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### Section 12 – cost of compliance

6. This reasoning covers whether the public authority is correct to apply section 12(1) (cost limit) of FOIA to the request.<sup>1</sup> The appropriate limit<sup>2</sup> for the public authority in this case is £450.
7. The public authority considers that the cost of complying with this request would exceed the appropriate limit under FOIA. It has explained that while the public authority holds most of the raw information contained in this request, it is not tabulated nor ever reported upon. Only the date of receipt and the date of response of a SAR is entered on its case management system, which is a basic time recording system. In order to obtain the requested information the public authority would need to open every individual SAR file and record the details contained in each one.
8. The public authority estimates that the amount of time required to open and interrogate each case file, record the answers to the questions and close the file is approximately five minutes. The number of SARs received within the requested time period is 725 and this would equate to over 60 hours of work to obtain the information. The public authority also carried out a sampling exercise to retrieve the requested information and this suggested that the time required per file would also vary depending on the complexity of its contents.
9. The Commissioner is satisfied that the public authority's arguments above are justified because it has explained that lengthy manual searches would be required and the reasonably estimated cost for obtaining the requested information is clearly in excess of the cost limit. Even were the estimate to be halved, the request would still exceed the cost limit.
10. The Commissioner's decision is that the public authority was correct to apply section 12(1) of FOIA to the request.

### Section 16(1) – The duty to provide advice and assistance

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<sup>1</sup> <https://www.legislation.gov.uk/ukpga/2000/36/section/12>

<sup>2</sup> <https://www.legislation.gov.uk/uksi/2004/3244/regulation/4/made>

11. Section 16(1) of FOIA provides that a public authority should give advice and assistance to any person making an information request. Section 16(2) clarifies that, providing an authority conforms to the recommendations as to good practice contained within the section 45 code of practice<sup>3</sup> in providing advice and assistance, it will have complied with section 16(1).
12. The Commissioner notes that the public authority briefly provided advice at the end of its initial response by suggesting that the complainant could make a new request for a narrower category of information but did not provide any specific assistance on the best ways to do so. The Commissioner notes that the public authority could have provided more specific advice and assistance on how the request could be redefined or reduced to try and meet the cost limit. The Commissioner is therefore satisfied that the public authority did not meet its obligations under section 16 of FOIA. The public authority must now provide appropriate advice and assistance to the requester.

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<sup>3</sup> <https://www.gov.uk/government/publications/freedom-of-information-code-of-practice>

## Right of appeal

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13. 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: 0870 739 5836

Email: [grc@justice.gov.uk](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

14. 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.
15. 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 .....**

**Michael Lea**  
**Team Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**