

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

### **Decision notice**

**Date:** 2 February 2023

**Public Authority:** Rochdale Borough Council  
**Address:** Number One Riverside  
Smith Street  
Rochdale  
OL16 1XU

### **Decision**

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1. The complainant requested information from Rochdale Borough Council ("the Council") relating to a drag queen story hour.
2. The Commissioner's decision is that the Council is entitled to rely on section 12(1) (cost limit) to refuse to provide the requested information.
3. However, the Commissioner finds that the Council failed to provide reasonable advice and assistance and therefore failed to meet its obligations under section 16(1) of the FOIA.
4. The Commissioner requires the Council to take the following steps to ensure compliance with the legislation.
  - Provide the complainant with advice and assistance to help them submit a request falling within the appropriate limit.
5. The Council 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 the FOIA and may be dealt with as a contempt of court.

## Request and response

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6. The complainant made the following information request to the Council on 9 August 2022:

“Can I please request all notes, emails (internal and external), letters (internal and external), and any other documentation related to the drag queen story hour that was scheduled for the 16th of August.

Please consider this as a FOI request.”

7. The Council refused to provide the requested information citing section 12(1) (cost limit) of the FOIA as its basis for doing so.

## Reasons for decision

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8. This reasoning covers whether the Council is entitled to rely on section 12(1) of the FOIA to refuse to provide the requested information.
9. Section 12(1) of the FOIA states that a public authority is not obliged to comply with a request for information if the authority estimates that the cost of complying with the request would exceed the appropriate cost limit. The appropriate limit for the public authorities such as the Council is £450. As the cost of complying with a request must be calculated at the rate of £25 per hour, section 12(1) effectively imposes a time limit of 18 hours for the Council.
10. A public authority can only take into account the cost it reasonably expects to incur in carrying out the following permitted activities in complying with the request:
- determining whether the information is held
  - locating the information, or a document containing it
  - retrieving the information, or a document containing it
  - and extracting the information from a document containing it
11. In its submissions to the Commissioner, the Council explained that it ran a search on the relevant systems for information within the scope of the request using appropriate key words as its search terms. This search located 325 documents and emails that may have fallen within the scope of the request.

12. The Council explained that it took approximately 2 minutes to review each item to determine whether it contained information within the scope of the request. Therefore, in total, it took the Council 10 hours and 50 minutes to review all 325 items (2 minutes x 325 items = 650 minutes).
13. The Council explained that as it has identified the items containing information within the scope of the request, it would now need to extract the relevant information from each item. The Council estimates that it would take approximately 4 minutes to extract the requested information from each email or document as some emails and documents are larger than others. Therefore, the Council calculated that it would take 23 hours and 20 minutes to extract the requested information from all 325 items (4 minutes x 325 items = 1400 minutes). In total, the Council estimates that it would take 32.5 hours to provide the requested information.
14. The Commissioner considers the Council's estimate of 6 minutes to review each of the 325 items for information within the scope of the request and extract the requested information to be reasonable. Even if the Council was to take 4 minutes to review each of the 325 items, the cost of complying with the request would exceed the appropriate limit.
15. The Commissioner's decision is that the Council estimated reasonably that the cost of complying with the request would exceed the appropriate limit. Therefore, the Council is entitled to apply section 12(1) of the FOIA to the request.

## **Section 16 – advice and assistance**

16. Section 16(1) of the 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>1</sup> in providing advice and assistance, it will have complied with section 16(1).
17. In its initial response to the request, the Council stated that it may be able to provide the requested information if the complainant was to redefine their request more specifically. However, the Council did not

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<sup>1</sup> <https://www.gov.uk/government/publications/freedom-of-information-code-of-practice>

clearly advise the complainant that they could refine their request to bring it within the cost limit or provide the complainant with suggestions on how to narrow the scope of their request.

18. The Commissioner's decision is that the Council did not provide the complainant with adequate advice and assistance and therefore breached section 16(1) of the FOIA.

## 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: 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)

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 .....**

**Victoria James**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**