

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 25 September 2023

Public Authority: Sellafeld Ltd
Address: Hinton House
Birchwood Park Avenue
Warrington
WA3 6GR

Decision (including any steps ordered)

1. The complainant has requested data about late payment of invoices. The above public authority ("the public authority") relied on section 12 of FOIA (costs) to refuse the request.
2. The Commissioner's decision is that the public authority was entitled to rely on section 12 of FOIA to refuse the request. However, the public authority breached section 16 of FOIA as it failed to provide advice and assistance to help the complainant refine his request.
3. The Commissioner does not require further steps to be taken.

Request and response

4. On 13 June 2023, the complainant wrote to the public authority and requested information in the following terms:

"Please may you provide me, in Microsoft Excel or an equivalent electronic format, with a list of invoices that were not paid within 30 days for the last 6 financial years which would feed into the Regulation 113 Notice you are required to publish each year as part of your obligations under The Public Contracts Regulations 2015, with the following information for each invoice (where available):

- The name of the Supplier
 - Supplier email address
 - Supplier company registration number
 - Supplier postal address
 - Supplier telephone number
 - Supplier website
 - The date of the invoice
 - The invoice reference
 - The gross value of the Invoice
 - The date the invoice should have been paid by
 - The actual payment date of the invoice
 - The total amount of interest liability due to late payment of the invoice
 - The total amount of interest paid to the supplier due to late payment of the invoice."
5. The public authority responded on 16 June 2023. It did not refer to section 12, but it stated that complying with the request would "exceed the appropriate cost limits." It issued a further response on 29 June 2023 in which it relied on section 12 to refuse the request. It upheld this stance following an internal review.

Reasons for decision

6. Section 12 of FOIA allows a public authority to withhold information if it reasonably estimates that the cost of compliance would exceed a particular limit. That limit is £450 for the public authority – or the equivalent of 18 hours of staff time.
7. The public authority is entitled to include, in its estimate, any time that would need to be spent identifying whether relevant information was held and then locating, extracting or retrieving that information.
8. The complainant argued that the information must be readily accessible as the public authority is required, by regulation 113 of the Public Contracts Regulations 2015, to publish details of any undisputed invoices that were paid late. It would need ready access to this data in order to fulfil its statutory requirements.
9. The public authority explained to the Commissioner that, whilst it was now subject to the Public Contract Regulations, this had not been the case for the entire period covered by the request (prior to 2016 it had been a privately-owned company). Some of the contracts that would fall within scope pre-dated the Regulations and were on bespoke terms. It

also noted that the different categories of information requested exceeded what Regulation 113 required to be published.¹

10. However the public authority had also consulted its Accounts Payable manager who had confirmed that, to produce the Regulation 113 statistics (which it did twice a year), two members of staff had to spend around four days each, sifting through approximately 30,000 invoices to extract the relevant information.
11. Given that it took 56 hours of staff time to extract the data for six months, the public authority estimated it would take 12 times as long to produce data for six years. That would mean a total of 672 hours or a notional cost of £16,800 to comply with the request.
12. The Commissioner is satisfied that the public authority's estimate, which is based on real world data, is one that is reasonable. Complying with the request would clearly exceed the cost limit – and by some margin.
13. The public authority was therefore entitled to rely on section 12 of FOIA to refuse the request.

Procedural matters

14. Where a public authority relies on section 12 to refuse a request, section 16 of FOIA and the section 45 FOIA Code of Practice require reasonable advice and assistance to be provided to help the requester narrow their request so that it falls within the cost limit. Alternatively, if there is no reasonable way in which the request could be refined, the public authority should inform the requester that the request cannot be meaningfully refined.
15. In its submission to the Commissioner, the public authority argued that it had met its section 16 obligation because it had informed the complainant that his request could not be meaningfully refined.
16. Whilst the Commissioner appreciates that the scope of the request would need to be reduced very substantially in order for it to fall within the cost limit, he is not persuaded that no meaningful refinement is possible. Whilst a public authority is not required to lavish ingenuity on thinking of ways to refine the request, it should be capable of identifying

¹ [Regulation 113\(7\)](#) only requires public authorities to publish: the percentage of total invoices paid late; the interest liability on those invoices and; the interest actually paid.

relatively simple ways of reducing the volume of material that would need to be reviewed.

17. The public authority has explained that it requires 56 hours to extract six months' worth of data. Assuming that the 30,000 invoices are distributed reasonably evenly across those six months, that would indicate that, had the complainant only asked for a month's worth of data, the request might have fallen within the cost limit.
18. A month's worth of data might not be sufficient for the complainant's purposes, but that is a decision for him to make. Had the public authority simply provided its figure of 56 hours for six months' data at the outset, the complainant may have refined his request rather than making a complaint.
19. The Commissioner therefore does not consider that the public authority has provided reasonable advice and assistance and has therefore failed to comply with section 16 of FOIA.
20. As the 56-hour figure has now been provided to the complainant via this decision notice, he is now able to submit a refined request, should he wish to do so. The Commissioner does not consider that it would be proportionate to require the public authority to take any remedial steps.

Right of appeal

21. 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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

22. 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.
23. 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

Roger Cawthorne
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF