

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 8 January 2024

Public Authority: Salford City Council
Address: Salford Civic Centre
Chorley Road
Salford
M27 5DA

Decision (including any steps ordered)

1. The complainant requested information from Salford City Council (the Council) relating to the number of properties with at least one individual in residence with Council tax exemption N at 1 April 2022. The Council refused to comply with the request citing section 12 (cost limit) of FOIA.
2. The Commissioner's decision is that the Council was entitled to refuse to comply with the request in accordance with section 12(1) of FOIA. The Commissioner finds that the Council complied with its obligations under section 16 of FOIA to offer advice and assistance.

Request and response

3. On 5 May 2023, the complainant originally made a request for information which the Council refused on the basis of section 12, this request included:

"6) how many properties under your Council tax jurisdiction have a credit balance of £150 on their Council tax account as at today (or at the closest available date in the 2023/24 Council tax year, specifying which date has been used)."
4. On 23 May 2023, the complainant made a refined request for information to the Council:

"please can you provide the following:

9) How many of the first 50 properties and last 50 property addresses in alphabetical order (so 100 in total) in your answer to question 6 had at least one individual in Council tax exemption class N as at 1 April 2022? If this data is not available at 1 April 2022, please provide as at the date used in "6)" (specifying which date has been used).

Providing this information for 100 properties would not breach your time restrictions."

5. The Council responded on 29 June 2023. It stated that it held information within the scope of the request, but that the cost of complying with the request would exceed the cost threshold of £450 and 18 hours for public authorities. In accordance with this finding, the Council issued a section 12 refusal notice in reply to the request for information.
6. The Council provided the outcome of its internal review on 26 July 2023 and upheld its position. The Council explained that, due to the nature of the request, it was not possible to offer advice and assistance which would enable the information to be provided without exceeding the cost limit.

Scope of the case

7. The complainant contacted the Commissioner on 26 July 2023 to complain about the way their request for information had been handled. The complainant disagrees with the Council's application of section 12 of FOIA as they believe the time required by Salford City Council to interrogate its systems and provide the information within the refined scope of this request should take no more than 5 minutes per account.
10. The Commissioner considers the scope of this case to be to determine if the Council has correctly cited section 12(1) of FOIA in response to the request. The Commissioner has also considered whether the Council met its obligation to offer advice and assistance, under section 16 of FOIA.

Reasons for decision

Section 12 – cost of compliance

11. Section 12(1) of 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 limit” as set out in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 (“the Fees Regulations”).

12. The appropriate limit is set in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 at £600 for central government, legislative bodies, and the armed forces and at £450 for all other public authorities. The appropriate limit for the Council is therefore £450.
13. The Fees Regulations also specify that the cost of complying with a request must be calculated at the rate of £25 per hour, meaning that section 12(1) effectively imposes a time limit of 18 hours for the Council.
14. Regulation 4(3) of the Fees Regulations states that a public authority can only consider 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.
15. A public authority does not have to make a precise calculation of the costs of complying with a request; instead, only an estimate is required. However, it must be a reasonable estimate. In accordance with the First-Tier Tribunal in the case of *Randall v Information Commissioner & Medicines and Healthcare Products Regulatory Agency* EA/2007/0004, the Commissioner considers that any estimate must be “sensible, realistic and supported by cogent evidence”. The task for the Commissioner in a section 12 matter is to determine whether the public authority made a reasonable estimate of the cost of complying with the request.
16. Section 12 is not subject to the public interest test; if complying with the request would exceed the cost limit then there is no requirement under FOIA to consider whether there is a public interest in the disclosure of the information.
17. Where a public authority claims that section 12 of FOIA is engaged it should, where reasonable, provide advice and assistance to help the requester refine the request so that it can be dealt with under the appropriate limit, in line with section 16 of FOIA.

Would the cost of compliance exceed the appropriate limit?

18. In its response to the complainant, the Council advised the complainant that they could confirm:

“that as of 17 May 2023 there were 1726 Council Tax accounts with a credit of £150 on them. This is for both terminated and live accounts. The figure of 1726 is merely a snapshot as of 17 May 2023 and it should not be concluded that all the £150 credits are due to unclaimed rebates.

The report used to arrive at the figure of 1726 does not contain property addresses nor does it contain information pertaining to students' discounts, nor can it be manipulated to report on such information. The information is held at account level and would require each account to be interrogated manually which is subject to human error and would take more than 18 hours of work.

Additionally, any data taken from a sample number of cases would not be representative of the whole.”

19. In its submission to the Commissioner, the Council explained that its Council Tax (CT) IT case systems are not able to provide a report which provides identifiable addresses which can be listed in a specific order. The Council confirmed that this list did not provide other account details, such as Council tax exemptions, and whether the occupants at the address are students. The Council explained that a report can only be requested from the IT team which provides a list of account reference numbers located on the system within date and amount parameters. This does not include other CT account identifiers. This would take a minimum of 20 minutes to retrieve the circa 1726 relevant accounts. For each account, a member of staff would then have to undertake the following:

- Transfer each account reference information to an Excel spreadsheet which would take 20 minutes.
- Search the CT system using the reference number, for each individual account and identify address and/or postcode identifiers.
- Check why and when the account went into credit.
- Check the accounts do satisfy the complainants criteria and have an occupier with exempt CT status of N and credit of £150.
- Copy and paste address details to the excel spreadsheet.

- Format the completed spreadsheet containing the 1726 accounts into alphabetical order by street or road or postcode to identify the first 50 and last 50 property addresses.
20. The Council further explained that they had conducted a sampling exercise by an experienced Council Tax officer to determine the time needed to locate and retrieve the information within scope of the request. The Council stated the this would be an individual:
- “who is very familiar with the systems, which provides the most favourable time estimate in which to complete this task. If the task were to be conducted by another Council Officer, it could potentially take longer.”
21. The Council estimated that it would take 1.5 minutes to review each record, equating to a total of 2,589 minutes for the overall task (1.5minutes x 1726 CT accounts). The Council therefore considered that over 43.15 hours would be required to check all 1726 records to provide the information requested for 100 properties. The Commissioner notes that, even if this estimate is halved, the cost of complying with the request would still exceed the cost limit under FOIA.
22. The Commissioner’s decision is that the Council is therefore entitled to rely on section 12(1) of FOIA to refuse to comply with the request.

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

23. 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 where an authority conforms to the recommendations as to good practice contained within the section 45 code of practice¹ in providing advice and assistance it will have complied with section 16(1).
24. Where a public authority claims that section 12 of FOIA is engaged it should, where reasonable, provide advice and assistance to help the requestor refine the request so that it can be dealt with under the appropriate limit in line with section 16 of FOIA.
25. The Commissioner notes that this complaint forms part of a series of previous requests to the Council and that the complainant has refined

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

the request for information for a smaller data set of 100 properties listed in alphabetical order believing that this will enable disclosure.

26. The Council has explained that, due to the nature of how the information is held, no further meaningful advice could be offered to refine the request. The Commissioner considers that this meets the obligations of section 16 of FOIA.

Right of appeal

27. 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

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

28. 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.
29. 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
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Wycliffe House
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