

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 8 April 2024

Public Authority: East Riding of Yorkshire Council
Address: County Hall
Beverley
East Yorkshire
HU17 9BA

Decision (including any steps ordered)

1. The complainant requested information from East Riding of Yorkshire Council ("the Council") relating to East Yorkshire Parent Carer Forum.
2. The Commissioner's decision is that the Council is entitled to rely on section 12(1) (cost limit) of FOIA to refuse to provide the information requested in parts 2 and 3 of the request. However, he finds that the Council failed to provide reasonable advice and assistance and therefore did not meet its obligations under section 16(1) of FOIA.
3. The Commissioner requires the Council to take the following steps to ensure compliance with the legislation.
 - The Council must provide the complainant with advice and assistance to help them submit a request falling within the appropriate limit.
4. 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 Act and may be dealt with as a contempt of court.

Request and response

5. On 31 October 2023, the complainant wrote to the Council and requested information in the following terms:

"I am making this request for information after reading the past several years account for East Yorkshire Parent Carer Forum on the Charity Commission Government website.

Under the Freedom of Information Act, I would like to request the following information:

1. From April 2018 to April 2023 I'd like to know how much money has been given/spent on/donated by the LA to the parent carer forum. I'd like to know the figure for each year as well as it been a specified what the money was for (this would include any additional funds for staff, transport etc)
2. From April 2018 to April 2023 what has been gifted from the LA to the EYPCF in terms of room hire, designing staff for posters/websites, catering, training etc (if this has been hired with money from the LA I expect this to be listed under my 1st request)
3. Does the LA hire the services given in point 2 at a reduced cost of not for free. If so, how much of a reduced rate it this?

I would like you to provide this information digitally via email."

6. The Council provided the complainant with information in response to part 1 of the request. However, it refused to provide the information requested in parts 2 and 3 stating that the cost of doing so would exceed the appropriate limit.

Reasons for decision

7. The Council has not stated which exemption it is relying on to refuse to provide the information requested in parts 2 and 3 of the request. However, as the Council stated that it considers that the cost of complying with parts 2 and 3 of the request would exceed the appropriate limit the Commissioner assumes that the Council is relying on section 12(1) (cost limit) of the FOIA to refuse to provide the information.

8. Therefore, this reasoning will cover whether the Council is entitled to rely on section 12(1) of FOIA to refuse to provide the information requested in parts 2 and 3 of the request.

Section 12(1) – cost of compliance

9. 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 cost limit. The appropriate limit for 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 stated that in order to provide the information requested in parts 2 and 3 of the request, it would need to manually review every transaction made between 2018 and 2023 by a service area within its Children's Services department that is most likely to have had dealings with East Yorkshire Parent Carer Forum (EYPCF). The Council explained that it would need to review each transaction made by the service area to identify which transactions relate to EYPCF and if a transaction was a donation.
12. The Council explained that it has conducted a search for transactions made by the service area from the financial year 2022-23. This search identified 267 transactions. Based on this, the Council estimates that in total it would need to review 1335 transactions from between 2018 and 2023 in order to provide the information requested in parts 2 and 3 of the request (267 transactions x 5 years = 1335).
13. The Council estimates that it would take approximately 10 minutes to review each transaction. This estimate includes the time it would take to establish what each transaction relates to, to check if each transaction was a gift or discounted, and to carry out any further checks that may be needed to confirm that a transaction relates to EYPCF. Therefore, in total the Council calculated that it would take 222.5 hours to review

every transaction made by the service area most likely to have had dealings with EYPCF between 2018 and 2023 for the information requested in parts 2 and 3 of the request (1335 transactions x 10 minutes = 222.5 hours).

14. Based on the explanation provided by the Council, the Commissioner is satisfied that it would be necessary for the Council to manually review each transaction made by the service area most likely to have had dealings with EYPCF between 2018 and 2023 in order to provide the information requested in parts 2 and 3 of the request. He considers the Council's estimate of 10 minutes to review each transaction to be reasonable. Even if the Council were to take only 1 minute to review each transaction, the estimated cost of complying with parts 2 and 3 of the request would still significantly exceed the appropriate limit.
15. Therefore, the Commissioner's decision is that the Council was entitled to rely on section 12(1) of FOIA to refuse to comply with parts 2 and 3 of the request.

Section 16 – advice and assistance

16. 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 practice¹ in providing advice and assistance, it will have complied with section 16(1).
17. The Council did not provide the complainant with suggestions on how to narrow the scope of parts 2 and 3 of the request and hence 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 FOIA.

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

Right of appeal

18. 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

19. 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.
20. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Ben Tomes
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Wycliffe House
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Wilmslow
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SK9 5AF