

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 18 September 2024

Public Authority: Anthem Schools Trust
Address: Highbridge House
16-18 Duke Street
Reading
RG1 4RU

Decision (including any steps ordered)

1. The complainant requested from Anthem Schools Trust (the Trust), staff travel and accommodation expenses covering a period of five years. The Trust relied on section 12(1) (cost of compliance exceeds appropriate limit) and section 14 (vexatious requests) of FOIA to refuse the request.
2. The Commissioner's decision is that the Trust was entitled to rely on section 12(1) of FOIA to refuse the request. The Commissioner also finds that in failing to provide advice and assistance at the time it responded to the request, the Trust did not comply with its section 16 obligation. The Trust however subsequently provided advice to the complainant.
3. The Commissioner does not require any steps to be taken.

Request and response

4. On 5 February 2024, the complainant wrote to the Trust and requested information in the following terms:

"Could you please share the data on Anthem staff travel and associated costs for the last 5 years, broken down by academic year, the city the staff members were travelling from, the city the staff members were travelling to, the number of people undertaking trips on that route over the course of a year, and the costs of those trips, broken down by transportation costs (including any rented car costs, or any

reimbursements of mileage if driving own car), and any accommodation costs where the staff were required to stay overnight.

It should be very straightforward to pull this off your HR/expenses system.

If possible, please include purpose of travel.

Please note, I am not requesting any personal information, ie I do not want to know which staff member did the trip, just the aggregated data on travel please. Please feel free to aggregate the data to the nearest large geographical centre where the exact town name may identify individuals."

5. During the Trust's communications with the complainant, they clarified that "Anthem staff" includes its Executive Team and all employees across its 16 schools.
6. On 28 February 2024, the Trust responded to the request. It relied on section 12 and 14 of FOIA to refuse the request. It said that it had aggregated the request with requests from other parents / carers that are part of a group that is campaigning to remove one of its schools from the Trust to join another local trust.
7. The complainant replied to the Trust on the same day and asked it to carry out a review of its handling of the request.
8. On 25 February 2024, the Trust completed a review and wrote to the complainant maintaining its position. It said that although the request was aggregated, even when considered alone, because of the particular the level of detail requested, the cost of complying with the request would 'far exceed the 18 hours limit as per Section 12'.

Scope of the case

9. On 28 March 2024, the complainant contacted the Commissioner to complain about the way their request for information had been handled. They disputed that the exemptions apply. They also said that the Trust had not made any attempts to offer 'higher level data' that would take less than 18 hours to compile, and therefore they believe that it does not wish to share information.
10. During the Commissioner's investigation, the Trust offered the complainant information within the scope of a narrowed request, that is, staff travel and accommodation expense yearly totals by school covering the five-year period. The complainant refused the scope of the narrowed request.

11. The Commissioner has therefore considered whether the Trust is entitled to rely on section 12 and 14 of FOIA to refuse the request.

Reasons for decision

Section 12 – cost of compliance

12. The following analysis covers whether complying with the request would exceed the appropriate limit.
13. 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”)
14. The appropriate limit is set in the Fees Regulations at £600 for central government, legislative bodies and the armed forces, and at £450 for all other public authorities. The appropriate limit for the Trust is £450.
15. 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 Trust.
16. Regulation 4(3) of the Fees Regulations states that 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.
17. 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. The Commissioner considers that any estimate must be sensible, realistic and supported by cogent evidence. The task for the Commissioner in a section 12(1) matter is to determine whether the public authority made a reasonable estimate of the cost of complying with the request.
18. Where a public authority claims that section 12(1) 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.

The Trust's position

19. The Trust explained that it aggregated the cost of complying with the request with three other requests for information. The requests were received within a 60 working day period (28 January 2024 to 9 February 2024) from parents/carers who were part of a group campaigning to remove the school from the Trust to join another local trust.
20. The Trust explained that to determine whether the information is held, a conversation took place between three members of staff (including staff in its finance department), which, took 30 minutes. It therefore cost £37.50 (0.5 hours x £25 per hour x three members of staff) to determine the information was held.
21. The Trust explained that to provide the requested information, it would have to retrieve and extract travel and accommodation information from each expense forms submitted by staff between 2019 and 2024 at each of its 16 schools. This is because, it does not hold the forms on its central finance system.
22. The Trust explained that each school only extracts certain information from the forms and submits this to the Trust, which, it uses to compile higher level data. For example, the name of the school, the number of expense forms received (not the forms themselves), the total costs of each type of expense, e.g., travel/accommodation, equipment etc. The school then archives the forms.
23. The Trust explained that it was able to offer the complainant staff travel and accommodation expense yearly totals by school covering the five-year period from the higher-level data held on its central finance system. It also searched the system and identified that 838 expense forms were held by its schools for 2023 and 2024.
24. The Trust explained that the expense forms held by the schools record the event that was attended, any accommodation costs, and the cost of travel, which, is recorded in mileage, and therefore the city travelled to may not always be recorded. It provided the Commissioner with a completed expense form.
25. The Trust carried out a sampling exercise to determine the cost of extracting information held within an expense form. It said that it took one member of the finance team 20 minutes to review one expense form and extract the relevant information. It would therefore cost a total of £6,913 (0.33 hours x £25 per hour x 838 forms) to provide some of the requested information for 2023/24 alone. It confirmed that this was the quickest method for extracting the information.

26. The Trust explained that staff also use taxi companies and Click Travel for business travel, including train and hotel bookings. Each school also extracts only certain information (as mentioned above) from the invoices, which, is then provided as part of the total travel and accommodation cost information submitted to the Trust for the purposes of collecting higher-level data.
27. The Trust said that it would therefore have to extract travel and accommodation information from each invoice between 2019 and 2024 and combine this information with the information extracted from the expense forms to fulfil the request.
28. The Trust also said that it does not hold information about “the number of people undertaking trips on that route over the course of a year”.
29. In regard to advice and assistance offered by the Trust to help the complainant refine the request, so that it could be dealt with under the appropriate limit. The Trust referred to the scope of the narrowed request (above) communicated to the complainant.

The Commissioner’s view

30. The Commissioner is satisfied that complying with this request would exceed the appropriate limit.
31. The Commissioner notes that the complainant initially said that the Trust has not made any attempts to offer ‘higher level data’ that would take less than 18 hours to compile. He is reminded that there is no obligation on a public authority to search up to the appropriate limit and provide any information that it has identified¹. He also notes that the complainant refused the scope of the narrowed request.
32. The Commissioner has reviewed the wording of the requests that the Trust aggregated with the principal request. He notes that the requests seek information ranging from communications about SEND support and financial information, to communications about staffing and vacancies, to communications relating a governance review. He also notes however that the Trust refused the requests, and therefore there are no costs (in dealing with these requests) to aggregate with the principal request.
33. The Commissioner notes that the Trust’s central finance system does not hold each invoice for staff travel and accommodation expenses between 2019 and 2024. He also notes that schools only submit certain information from expense forms to the Trust, which, is held as combined

¹ [Requests where the cost of compliance exceeds the appropriate limit \(section 12\) | ICO](#)

'higher level' data within its central finance system, and that the school's then archive the forms. He also notes that the expense information submitted to the Trust nor the higher-level data includes where the individuals who claimed expenses travelled from and to, and that this information would have to be extracted from each archived expense form and invoice.

34. The Commissioner also notes that the number of people undertaking trips on the same route over the course of a year is not readily available, and this information would have to be noted separately as the Trust goes through each expense form and then combined.
35. The Commissioner has reviewed the cost to determine the information is held, the sampling exercise/cost estimate, the completed expense form, and the yearly totals for travel and accommodation expenses of each school covering the five-year period provided by the Trust.
36. The Commissioner notes that in its calculation of the phone call to determine whether the information is held, it has included 0.5 hours (30 minutes) per person on the call. The regulations however allow charging per hour and not per person, he has therefore re-calculated the cost of the call to £12.50 (0.5 hours x £25 per hour), which, in his view is reasonable.
37. The Commissioner also carried out a cost exercise to extract the relevant information from the completed expense form, which, he notes took 1 minute. It would therefore cost £209.50 (0.01 hours x £25 per hour x 838 forms) to extract the relevant information from the forms held for 2023 and 2024, which, is significantly less time than it took the Trust.
38. The Commissioner notes from the yearly total expense figures for 2019 – 2022 when added together total £440,530, and therefore the significant number of further expense forms/invoices that the Trust would also have to retrieve and extract information from to fulfil the request.
39. He is therefore satisfied that when combining the cost to determine the information is held, with the cost to extract information from expense forms for 2023 and 2024 (£209.50) and the further expense forms held for 2019 – 2022, and all the invoices (2019 – 2024), the cost would likely exceed the appropriate limit (£450).
40. Complying with the request would therefore exceed the cost limit and so the Trust was entitled to rely on section 12(1) of FOIA to refuse the request, and there was no obligation for it to comply with the request.

41. As the Trust was entitled to reply on section 12(1) to refuse the request, the Commissioner has not gone on to consider its application of section 14 in this case.

Procedural matters

Section 16 – advice and assistance

42. Section 16 of FOIA requires public authorities to provide reasonable advice and assistance to those making, or wishing to make, information requests.
43. When a public authority refuses a request because the cost of compliance exceeds the appropriate limit, it should explain, to the requester, how they could refine their request such that it would fall within that limit. In rare cases, it will be appropriate for the public authority to explain to the requester why their request cannot be meaningfully refined.
44. In this case, the Trust does not appear to have provided any advice and assistance to the complainant – or explained why it is unable to do so at the time it responded to the request. It however provided advice to the complainant (in the form of the narrowed request) during the Commissioner's investigation.
45. The Commissioner is therefore satisfied that the public authority did not comply with section 16 of FOIA when responding to the request. However, as advice was subsequently provided to the complainant, no further action is required by the Trust.

Other matters

46. The Commissioner is concerned at the level of communication that has been required with the Trust during this investigation to clarify its responses and obtain a clear understanding of how information is held within its central finance system and schools. He notes that it included the cost of determining the information is held and then provided a submission informed by its finance department, which, Trust staff had difficulty in clarifying and required a great deal of further communication with the finance department to understand.
47. The Commissioner would recommend that the Trust takes the time to understand how information is held before responding to any future requests.

Right of appeal

48. 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

49. 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.

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

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