

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 4 March 2025

Public Authority: Council of Queen Mary University of London
Address: Mile End Road
London
E1 4NS

Decision (including any steps ordered)

1. The complainant has requested information relating to the employment of Professional Service staff. The Council of Queen Mary University of London ("the public authority") relied on section 12(1) of FOIA (cost of compliance) to refuse the request.
2. The Commissioner's decision is that the public authority was not entitled to rely on section 12(1) of FOIA to refuse the request.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation:
 - issue a fresh response that does not rely on section 12 of FOIA.
4. The public authority must take these steps within 30 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 21 May 2024, the complainant wrote to the public authority and requested information in the following terms:

"1: The total of Professional Service staff employed for each financial year ending July 2019, 2020, 2021, 2022, 2023, 2024 (ongoing).

Please provide both the headcount and FTE. Please break this data down per division (including, but not limited to: academic departments, Faculties, Principal's office, research services, students experience, development, finance, HR, IT, etc.)

2: Per division, the breakdown of number of PS staff per Grade on the QM pay scale, for each financial year ending July 2019, 2020, 2021, 2022, 2023, 2024 (ongoing). Please include off scales/ off the grade numbers too.

3: Per division, and within each division broken down per Grade, the turnover of postholders in PS roles, for each financial year ending July 2019, 2020, 2021, 2022, 2023, 2024 (ongoing). Please include off scales/ off the grade numbers too.

4: Per division, and within each division broken down per Grade, the total salary cost, for each financial year ending July 2019, 2020, 2021, 2022, 2023, 2024 (ongoing). Please include off scales/ off the grade numbers too."

6. On 6 June 2024, the public authority asked for clarification in the following words:

"Please clarify whether you are seeking whole-year data for each year rather than snapshot data.

Please confirm whether you mean spinal points by 'grade numbers'.

In addition, we believe that fulfilling all four parts of your request for all years listed would be likely to exceed the appropriate limit and lead it to be refused in whole under s.12 of the Freedom of Information Act 2000. We propose to supply parts 1 and 2 and not 3 and 4, subject to the clarifications we have requested."

7. On 2 July, the complainant providing clarification in the following words:

"I am seeking the whole-year data for each financial year. I noted '(ongoing)' for 2024 as I realise that that financial year ends in July, so that won't yet be the full financial year. But for this one year, please provide the data up to this point, i.e.: early-July.

The 'off the grade numbers' you cite are part of a larger sentence. I want the numbers that are off the scale of the spinal points of grades as well. As I understand, most employees at QMUL are Grades 1-7, but people are employed on contracts off that scale. I want to know how many."

8. On 31 July 2024, the public authority responded and partially disclosed some information relating to questions 1, 2 and part of 3. It relied on section 12(1) of FOIA to refuse the remainder part of the request – a position it upheld following an internal review.

Reasons for decision

Section 12 – cost of compliance

9. The following analysis covers whether complying with the request would have exceeded the appropriate limit.
10. 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 limit” as set out in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 (“the Fees Regulations”).
11. 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 this public authority is £450.
12. The Fees Regulations also specify that staff time 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 public authority.
13. When compiling an estimate, a public authority may only include time spent carrying out permissible activities. The four permissible activities are set out in the Fees Regulations:
 - Identifying whether any information is held.
 - Locating the required information within a larger record.
 - Extracting the information from a larger record.
 - Retrieving the information (if it is not held on day to day systems)
14. Where a public authority is relying on section 12(1) to refuse a request it must still confirm whether or not it holds the information.

The public authority’s position

15. It is the public authority’s position that it took in excess of 18 hours just to provide the partial response.
16. The public authority explained to the Commissioner that in regard to the questions 1 and 2 of the request, that the data was hard to compile because the complainant asked for data across a whole year rather than

a snapshot from a specific moment in time. Collating the information in this way was difficult because fields such as grade, spinal point and Full Time Equivalent (FTE) changed throughout the course of the year.

17. In relation to question 4, the public authority advise that collating this information would mean running 12 monthly reports. The system takes 1.5 hours to produce a single output report for each payroll month.
18. The public authority also provided a description of the individual tasks the staff member had to do and how long each task took. This breakdown is illustrated in the table below

Q1 & Q2

Step	Hours taken
The team assessing the request and responding to seeking verification	2
Running source reports	2
Workflow to merge source reports	4
Data quality checks and repairs to the output file	5
Building visuals from the output file	1
Prepare snapshots from visuals for the final response	1
Presenting findings to the senior management team	2
Reviewing clarifications and submitting the final response	1

Q3

Step	Hours taken
Dealing with clarification communications; internal discussions regarding the suitability of existing and additional work to calculate requested breakdowns	2
Extraction of data, building tables and sharing	1

Q4

Step	Hours taken
Internal time spent assessing the viability of completing this request, discussions with Payroll and their assessments before providing an explanation to reject this question	2

The Commissioner's view

19. The Commissioner is not satisfied that complying with the request would exceed the appropriate limit.
20. The public authority did provide a breakdown of tasks it said would be required. This was based on the actual time spent compiling a response to parts 1, 2 and 3 of the request and a prediction of the additional time that would be required for part 4. However, as an estimate of the overall time needed to comply with the request, the Commissioner does not consider this figure to be reasonable.
21. Whilst the Commissioner accepts that this might have been how long each individual task took, he is not satisfied that all the tasks were permissible activities. Where the tasks are permissible activities, the Commissioner is equally not satisfied that the public authority has correctly measured the **staff** time spent on each task – as opposed to simply recording how long each task took from beginning to end.
22. In its breakdown, the public authority has included time spent “presenting findings to the senior management it team.” The Commissioner accepts that this might be desirable from a quality assurance perspective, but it is not a permissible activity and so cannot be included in an estimate.
23. The tasks included for parts 3 and 4, indicate that the public authority has also included time spent seeking clarification from the complainant and time spent deciding whether to apply section 12. These are not permissible activities under section 12 and therefore the time taken to conduct these cannot be included in the cost of compliance either.
24. It is the Commissioner’s view that the staff time spent on computer tasks has not been accurately recorded. If a member of staff must spend 15 minutes setting up a computer programme to locate and extract the relevant information, but can then return to other duties whilst leaving the computer on its own to complete the search, the amount of staff time taken to complete the task is 15 minutes – regardless of how long the programme takes to run. On the other hand, if multiple short searches are necessary, such that the member of staff’s input is constantly required and they cannot carry on with other duties, then the all of the time spent on that task is staff time. The public authority failed to provide a breakdown of what proportion of the tasks were done by computers and what proportion were done by people – despite having been specifically asked to do so.
25. In the absence of evidence that staff would need to be diverted from their duties for the entire time, the Commissioner is not persuaded that two hours is a reasonable estimate of the staff time necessary to run the “source reports.” He would be prepared to accept an estimate of 15

minutes to set up the programme and to check whether it had completed.

26. The public authority has included in their breakdown of tasks "workflow to merge source reports" and "Data quality checks and repairs to the output file". The public authority has failed to provide an adequate explanation of what these tasks are and why they would take the amount of staff time that it has stated. In particular, the use of a "workflow" indicates that the majority of this task is being performed by a computer, not a member of staff
27. The Commissioner considers that a more reasonable estimate for the time need to comply with all of the request would be 9.5 hours. This includes the following activities: the team assessing the request and responding to seeking verification (which the Commissioner takes to mean establishing where within the organisation the information is held and deciding on the best method of extracting it) he considers this should take two hours total, not two hours per part; running source reports (15 minutes of staff time); workflow to merge source reports (15 minutes); data quality checks and repairs to the output file; prepare snapshots from visuals for the final response; extraction of data, building tables and sharing (for part 3).
28. The remaining tasks appear to the Commissioner to be either impermissible, duplicated or overestimated.
29. The Commissioner does accept that the public authority will need to carry out further work to respond to part 4 of the request. However, he is sceptical that, when properly calculated, the additional staff time required will exceed 8.5 hours.
30. As the Commissioner does not consider that the cost of complying with the request would exceed the appropriate limit, it follows that the public authority was not entitled to rely on section 12(1) of FOIA to refuse it.
31. The public authority must now issue a fresh response to the request.

Right of appeal

32. 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

33. 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.
34. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Roger Cawthorne
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