

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 12 March 2025

**Public Authority:** Board of Governors of the University of East London

**Address:** University Way  
London  
E16 2RD

#### **Decision (including any steps ordered)**

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1. The complainant has requested details of staff who serve as magistrates. The above public authority ("the public authority") relied on section 12 of FOIA (cost of compliance) to refuse the request.
2. The Commissioner's decision is that complying with the request would exceed the cost limit. The public authority was therefore entitled to refuse it. The public authority did not comply with its duty under section 16 of FOIA as it did not provide reasonable advice and assistance to help the complainant refine her request.
3. The Commissioner does not require further steps to be taken.

#### **Request and response**

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4. On 19 September 2024 the complainant requested information of the following description:

"I would like to know:

- How many current employees at UEL are serving as magistrates or undergoing training prior to their first sitting, i.e., have passed the recruitment process
- Whether they are academic or non-academic staff

- How may additional days of leave they have been awarded to perform their magisterial duties.”
5. On 30 September 2024, the public authority responded. It denied holding the requested information.
  6. The complainant requested an internal review on the same day, pointing out that she was aware of colleagues who did act as magistrates. The public authority sent the outcome of its internal review on 17 October 2024. It revised its position. It now refused the request and relied on section 12(1) of FOIA in order to do so.
  7. Several further exchanges between the parties failed to bring about a successful resolution.

### **Reasons for decision**

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8. Section 12 of FOIA allows a public authority to refuse a request if the cost of identifying whether information was held and then locating, retrieving or extracting that information would exceed a specific limit.
9. The cost limit for this public authority is £450 or 18 hours of staff time.
10. The public authority explained to the Commissioner that, whilst it was aware that some of its staff did serve as magistrates, there was no policy governing this. Arrangements were made locally between the individuals concerned and their manager. No central list was held by HR or any other department.
11. Therefore, the public authority argued, the only way of reliably determining what information was held would be to ask each individual line manager how many of their staff were magistrates and how much leave they had taken.
12. The public authority explained that it had already spent 24 hours trying to establish what information it held. It explained this had included a two hour initial search from HR; four hours carrying out an internal review; seven and a half hours searching information held by the five Deans and 11 hours seeking information from 110 line managers.
13. This last task had established that it took each manager around three and a half minutes to establish what information was being sought and to search their records for relevant information. This figure also includes a small amount of time spent by the information governance team composing a mass email to managers and chasing responses.

14. To repeat the task across all 381 of its line managers would, the public authority estimated, take more than 22 hours.

### **The Commissioner's view**

15. The Commissioner accepts that complying with the request would exceed the cost limit.
16. Whilst the Commissioner accepts that the public authority may have spent more than 24 hours compiling its response, it is not clear that all of this time can be included in its estimate.
17. For example, the public authority is not entitled to include the four hours it spent carrying out an internal review. Although this may have been how long the review took, it is not an activity that can be included in an estimate of the cost of complying with a request.
18. For some of the other tasks, it seems rather vague what the time was actually spent on. For example, the public authority stated that it had spent 11 hours on "Preparation, circulation, answering queries relation to, and completion of 'survey' form to all line managers to locate individually held information." However, based on the 110 managers who responded having spent an average of three and a half minutes searching for information, that would only account for a little under six and a half hours. It's not clear what the other five and half hours were spent on.
19. Nevertheless, the Commissioner does accept two facts.
20. Firstly, that the public authority would need to gather information from all its line managers – someone serving as a magistrate could be employed in any of its departments. There is no policy requiring anyone more senior to be involved – so a search of (for example) heads of department could not be guaranteed to locate all relevant information.
21. Secondly, that three and a half minutes per line manager is a reasonable estimate. For some managers, it would take less than that (if they knew they had no staff serving as magistrates), for others, it may take considerably longer: the request had no time frame, so a manager may need to search through several years of unstructured records to find details of all leave requests.
22. If all 381 line managers were to spend three and a half minutes searching, that would take more than 22 hours of staff time – exceeding the cost limit by some distance. Even if the time per manager were reduced to just three minutes, the request would still exceed the limit.

23. The Commissioner is therefore satisfied that the cost of complying with the request would have exceeded £450 and therefore the public authority was entitled to refuse it.

## **Procedural matters**

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24. Section 16 of FOIA requires a public authority to provide reasonable advice and assistance to those making or wishing to make a request. The section 45 FOIA Code of Practice states that, where a public authority proposes to refuse a request as costly, that advice and assistance will include explaining how the request could be refined such as to bring it within the cost limit.
25. The public authority did not provide any advice and assistance at the point it first began relying on section 12.
26. The public authority did make subsequent efforts to agree a resolution with the complainant. These included providing her with the results of a partial search it had made for information.
27. The Commissioner recognises that these efforts were made in good faith and in a bid to comply with the spirit of openness. However, they unfortunately fall short of the obligation to provide advice and assistance.
28. The reason why a requester should be offered ways to refine a burdensome request is because it allows them to prioritise the information that is most important to them. By simply providing the information it is most convenient for it to provide, the public authority is removing the requester's right to decide which information they would prefer to receive.
29. There were many ways that the request could be refined. For example, the number of line managers requiring consultation could have been reduced by limiting the number of departments or the grades of staff involved. Removing the third bullet point would also substantially reduce the time needed per manager.
30. Given the matters set out in this decision notice, the Commissioner considers that the complainant now has sufficient information on which to formulate a narrower request. Consequently, he does not consider it proportionate to require the public authority to provide separate advice and assistance.

## Right of appeal

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31. 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](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

32. 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.
33. 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**