

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 4 April 2012

Public Authority: Carmarthenshire County Council
Address: County Hall
Carmarthen
SA31 1JP

Decision (including any steps ordered)

1. The complainant requested a breakdown of expenses claimed by a number of senior officers over the last five years. Carmarthenshire County Council ('the Council') refused to comply with the request as it would exceed the cost limit under section 12 of the FOIA. The Commissioner's decision is that the Council correctly refused the request under section 12 as compliance would exceed the appropriate cost limit. However, the Commissioner finds that the Council failed to comply with section 17(5) of the FOIA in that it did not cite section 12(1) within 20 working days of receipt of the request. The Commissioner requires no steps to be taken.

Request and response

2. On 19 December 2011, the complainant wrote to Council and requested information in the following terms:

"I understand that the total expense claims by some senior officers of the Council are listed on the website. Could you please provide me with a detailed breakdown of these, and additional expenses as listed below, to include; dates, amounts, purpose, purchases and any other relevant information. In respect of the Chief executive, please also provide details for any fees/expenses received as Returning Officer/Acting Returning Officer, for all elections (Community Council, County Council, National Assembly for Wales and General Election).

Please provide the above information retrospectively for the past five years, up to today's date.

Please include the following officers;

Chief Executive

Assistant Chief Executive (Customer Focus and Policy)

Assistant Chief Executive (People Management and Performance)

Director of Education and Children's Services

Director of Resources

Director of Regeneration and Leisure

Director of Technical Services

Director of Social Care, Health and Housing

Head of Administration and Law

Head of Corporate Property

Head of Financial Services

Head of Planning

Head of European and External Funding"

3. The Council responded on 6 February 2012 stating that, to comply with the request would exceed the appropriate cost limit as provided under the FOIA and, as a result, it was relying on section 12 as the basis for refusing the request.
4. On 12 February 2012, the complainant contacted the Council and requested an internal review of its handling of the request.
5. The Council provided the outcome of its internal review on 21 February 2012 and upheld its decision that section 12 of the FOIA was applicable as the cost of complying with the request would exceed the appropriate cost limit.

Scope of the case

6. The complainant contacted the Commissioner on 6 March 2012 to complain about the way her request for information had been handled.
7. The Commissioner considers that the focus of this complaint is the Council's application of section 12 to the information the complainant requested on 19 December 2011. The complainant also asked the Commissioner to consider the delay in the Council responding to the request.

Reasons for decision

Section 12

8. Section 12 of the FOIA states that a public authority is not obliged to comply with a request for information if it estimates that the cost of complying would exceed the appropriate cost limit which in this case is £450 as laid out in section 3(2) of the Fees Regulations. This must be calculated at the rate of £25 per hour, providing an effective time limit of 18 hours.
9. Regulation 4(3) of the Fees Regulations states that an authority, when estimating whether complying with a request would exceed the appropriate limit, can only take into account the costs it reasonably expects to incur in:
 - determining whether it holds the information;
 - locating the information, or documents containing it;
 - retrieving the information, or documents containing it; and
 - extracting the information from any documents containing it.
10. The Commissioner asked the Council to provide a detailed reasonable estimate of the time taken and cost that would be incurred by providing the information falling within the scope of the request. The Commissioner asked that, when the Council provided these calculations, a description of the nature of the type of work involved was also included.
11. The Council explained to the Commissioner that it knew that the requested information was held and therefore did not need to spend any time determining this. Its estimate for complying with the request therefore relates to locating, retrieving and extracting the information requested.
12. The Council advised that it employs in the region of 9,000 staff, a significant proportion of which submit expense claims each year (3,751 employees made claims in 2009/2010, 3619 employees made claims in 2010/2011). The Council confirmed that the majority of information is held in manual format by way of paper copies of completed expense claim forms. Once processed, claim forms are stored in batches of 50, and ordered by employee number and not by department. Around 3 to 5 batches are then placed in boxes which specify the month and year of the claims. The Council advised that, generally, it holds around six boxes of claim forms for each calendar month. In essence the Council holds between 900 and 1500 completed expense forms for each month (six boxes containing 3-5 batches of 50 claim forms).

13. In order to comply with the request, the Council advised that it would be necessary to manually retrieve the relevant expense claim forms and then extract the relevant information from the forms. The Council stated that 12 of the 13 officers listed in the requested had submitted expense claims, which are normally submitted on a monthly basis. Based on this, the Council estimated it would take 60 hours to comply with the request. The Council advised the Commissioner that this was a high level estimate as it was extremely difficult to calculate a truly precise estimate. The Council stated that it had undertaken a sampling exercise and it had taken approximately 3 minutes to locate a claim form submitted by one of the officers in question for June 2009. A further 2 to 5 minutes would then be spent extracting the information from each form, depending on the number of items which had been claimed for.

14. The Council provided the Commissioner with a breakdown of the 60 hours it estimated it would take to comply with the request, which is detailed below:

Locating and retrieving the forms:

- 12 (claiming officers) X 3 minutes (to find each monthly claim form) = 36 minutes per month to locate all relevant expense claim forms
- 36 minutes X 60 months = 2,160 minutes = 36 hours

Extracting the information:

- 12 (claiming officers) X 60 months = 720 expense claim forms
- 720 forms X 2 minutes (lowest estimate) = 1,440 = 24 hours

15. In its refusal notice, the Council explained that 12 of the officers referred to in the request had also made use of an electronic claim form, using the Council's dedicated "Resourcelink" system. Some of the officers made use of this system in 2009, others in 2010/2011. Under its duty to provide advice and assistance, the Council advised in its refusal notice that information held within this electronic system could be provided within the cost limit. The Council explained to the Commissioner that it would be able to provide information contained within its Resourcelink system within the cost limit as the system allows reports to be generated without the need for manual retrieval of data.

16. The Council stated that during the period covered by the request around 140 claims from the officers in question had been submitted via its Resourcelink system. The Council accepts that as its estimate for compliance with the request of 60 hours was based on manual retrieval of all expense claim forms, the estimate could be reduced to take into

account the 140 claims submitted via its Resourcelink system. However, the Council maintains that, even taking this into account, compliance with the request would still significantly exceed the appropriate limit.

17. In terms of extracting the information, the Council advised that its estimate of between 2 and 5 minutes per form relates to reading each form and manually inputting the relevant details into a table or spreadsheet. The Council explained that as the claim forms are handwritten the legibility, or otherwise, of the handwriting would be a factor in terms of the time this would take. In calculating its total estimate of 60 hours, the Council has used the lowest estimate of 2 minutes per form.
18. The Commissioner notes the sampling exercise which the Council undertook to locate one officer's expense claim form for one particular month. He accepts that it could take 3 minutes to locate and retrieve one officer's expense claim form for one particular month. The Commissioner also accepts that it is difficult to predict with certainty how long it would take to locate each expense claim form, as they could be located towards the front of a batch/box, or towards the back of the box. However, given the fact that for each month, the Council holds between 900 and 1500 forms, and even searching for the forms for all relevant officers at the same time, the Council's estimate of 36 minutes to check each month's records is reasonable. This is because 36 minutes for 900 forms would equate to 2.4 seconds per form and for 1500 forms, it would equate to 1.4 seconds per form.
19. The Commissioner considers the Council's estimate of 2 minutes to extract the information from each expense claim form to be reasonable and would depend on the number of items claimed for on each form, and the legibility of handwriting. The Commissioner notes that around 140 claim forms have been submitted via the Council's Resourcelink service. This would essentially reduce the total number of forms from which information would need to be extracted to 580 (720 – 140). This would, in turn reduce the Council's estimate for extracting the information requested from 24 hours to just over 19 hours, and the total estimate from 60 hours to 55 hours.
20. Due to the nature of the information requested by the complainant and the way in which it is recorded and held within the Council, it is the Commissioner's view that the Council has provided adequate explanations – as referred to above – to demonstrate that it would significantly exceed the appropriate limit of 18 hours to locate, retrieve and extract the requested information. The conclusion of the Commissioner is, therefore, that section 12(1) was appropriately applied by the Council and that it was not obliged to comply with the request.

Section 16

21. Section 16(1) imposes an obligation for a public authority to provide advice and assistance to a person making a request, so far as it would be reasonable to do so. Section 16(2) states that a public authority is to be taken to have complied with its section 16 duty in any particular case if it has conformed with the provisions in the Section 45 Code of Practice in relation to the provision of advice and assistance in that case.
22. Whenever the cost limit has been applied correctly, the Commissioner must consider whether it would be possible for the Council to provide advice and assistance to enable the complainant to obtain information without attracting the costs limit in accordance with paragraph 14 of the Code.
23. The Commissioner notes that, in both its refusal notice and its internal review response, the Council made the complainant aware of its obligation under the FOIA to provide advice and assistance and invited her to refine or reduce the scope of the request. The Council also indicated that it would be able to provide the information recorded on its Resourcelink system within the cost limit. The Commissioner notes that the complainant did not engage with the Council in relation to either of these suggestions. In her internal review request, the complainant asked the Council to review its response “relating to all the information requested”.
24. Based on the above, the Commissioner considers that the Council complied with its obligations under section 16(1) because it offered reasonable advice and assistance in this case.

Section 17 – refusal notices

25. Section 17(5) of the FOIA states that a public authority relying on a claim that section 12 or 14 applies must give the applicant a notice stating that fact within 20 working days of receipt of the request.
26. The request was made on 19 December 2011 and the Council did not issue a refusal notice citing section 12 of the FOIA until 6 February 2012. Therefore the Commissioner finds that the Council failed to comply with the requirements of section 17(5) of the 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: 0116 249 4253

Email: informationtribunal@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

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

Anne Jones
Assistant Commissioner
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF