

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 18 December 2012

Public Authority: The Ministry of Justice
Address: 102 Petty France
London
SW1H 9AJ

Decision (including any steps ordered)

1. The complainant requested information from the Ministry of Justice (MoJ) about costs relating to the Interpretation Project. The MoJ confirmed that it held relevant information but said that it would exceed the cost limit to comply with the request.
2. The Commissioner's decision is that the MoJ was entitled to refuse to provide the requested information under section 12. He requires no steps to be taken.

Request and response

3. Subsequent to earlier correspondence, the complainant wrote to the MoJ on 23 March 2012 and requested information in the following terms:
"the cost of 'salaries, other employment costs and any bonus payments' relating to the Interpretation Project".
4. The MoJ responded on 24 April 2012. It refused to provide the requested information citing section 12 of FOIA (cost of compliance exceeds appropriate limit). The MoJ provided an internal review on 10 September 2012 in which it maintained its original position.

Scope of the case

5. The complainant contacted the Commissioner on 10 September 2012 to complain about the way her request for information had been handled, in particular disputing the MoJ's citing of section 12.

"For an organisation as big as the Ministry of Justice with a large accounts department it should only take a few hours to add together all of the costs and expenses involved as all of the relevant processes should be itemised, well-automated and systematised".

6. She also brought to the Commissioner's attention the quality of the internal review and questioned whether her request for a review was considered properly.
7. The Commissioner considers the scope of his investigation to be the MoJ's citing of section 12.

Reasons for decision

8. Section 12 of FOIA provides that a public authority is not obliged to comply with a request if the cost of doing so would exceed the appropriate cost limit. This limit is set in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 (the fees regulations) at £600 for central government bodies. The fees regulations also state that the cost of a request must be calculated at the rate of £25 per hour, meaning that section 12 effectively provides a time limit of 24 hours.
9. The tasks that can be taken into account when calculating a fees estimate are specified in the fees regulations as follows.
 - Determining whether the requested information is held.
 - Locating that information.
 - Retrieving the information.
 - Extracting the information
10. The four activities are sequential, covering the retrieval process of the information from the public authority's information store.
11. When making her request, the complainant suggested to the MoJ:

"This information must be readily available from payroll and other records, and there can be no question of any exemption on the grounds of the amount of officer time required to produce it..."
12. Contrary to that view, the MoJ told her:

"Providing the information you have requested would mean contacting a number of offices across the MoJ estate to obtain these

details. This has been a long running project which began in 2010 and involved staff from various locations. As a result there are a significant number of records relating to the project and these would need to be sifted to extract the relevant details”.

The MoJ's estimate

13. Section 12 makes it clear that a public authority does not have to make a precise calculation of the costs of complying with a request. Only an estimate is required.
14. To determine whether the MoJ applied section 12 of FOIA correctly the Commissioner has considered the submission the MoJ provided during his investigation. In that submission, the MoJ provided its detailed estimate of the work involved in complying with the request together with evidence in support of its argument that there are “a significant number of records” in scope of the request.
15. The MoJ also confirmed that it had previously advised the complainant that the Interpreter's Project Team did not have its own discrete or central budget and had been resourced from the budgets of a number of different business areas within the MoJ.
16. Having considered all the relevant evidence, the Commissioner is satisfied that the MoJ's estimate that it would take more than 18 hours work to answer the request is based on a reasonable assessment of the activities that are allowed by Regulation 4(3) of the Fees Regulations. He accepts the estimate in this case and therefore finds that the MoJ applied section 12(1) correctly.

Other matters

17. In this case, the public authority did not provide the complainant with any breakdown of the estimated costs of complying with the request. Although FOIA does not require a public authority to provide a costs breakdown when refusing a request under section 12, the Commissioner considers that it is good practice to do so.
18. On a separate matter, the Commissioner notes that the complainant has taken issue with the quality of the correspondence she received from the MoJ in response to her request for an internal review. She told him:

“... it looks like a routine cut-and-paste exercise from their other responses”.

19. Having viewed that correspondence, the Commissioner is not surprised that she was left in some doubt as to whether the MoJ had given proper consideration to its response.
20. In correspondence with the Commissioner, the MoJ acknowledged that some of the references in its internal review correspondence were made in error and should not have been included. However, it confirmed that those errors did not have any bearing on the substance of the response.

Right of appeal

21. 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

22. 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.
23. 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

Jon Manners
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