

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 27 June 2013

Public Authority: Staffordshire County Council

Address: 1 Staffordshire Place
Stafford
ST16 2LP

Decision (including any steps ordered)

1. The complainant requested information from Staffordshire County Council (council) about how many people with Asperger's Syndrome in Staffordshire living in the community receive direct payments. The council said that it did not hold the requested information but this statement was not accepted by the complainant.
2. The Commissioner's decision is that, on the balance of probabilities, the requested information is not held and therefore the council responded appropriately to this request.
3. The Commissioner requires no further action to be taken.

Request and response

4. On 11 January 2013, the complainant wrote to the council and requested information in the following terms:

"Under the Freedom of Information Act 2000 we would like to know how many people there are in Staffordshire living in the community with Asperger Syndrome who receive Direct Payments"

5. The council responded on 8 February 2013. It stated that:

"Finance, who pay the Direct Payments don't have any way of identifying what people's needs are, Asperger's would come under the generic heading of Learning Disability."

6. Following an internal review the council wrote to the complainant on 15 February 2013. It stated that:

"both the relevant service area and finance department have both confirmed that the information is not held."

Scope of the case

7. The complainant's contacted the Commissioner on 11 March 2013 to complain that they were not satisfied with the council's response advising that the information was not held.
8. The Commissioner considers the scope of the case to be to determine whether the information relating to the request is held by the council.

Reasons for decision

9. Section 1 of the FOIA states that any person making a request for information to the public authority is entitled to be informed in writing by the public authority whether it holds the information of the description specified in the request, and if that is the case, to have that information communicated to him.
10. On 10 May 2013, the Commissioner asked the council for details of the searches it had carried out in order to reach a determination concerning whether the information was held.
11. The council stated that Finance, who makes the payments, does not have any way of identifying what people's needs are as the payments are made and recorded under the generic heading of "Learning Disability". The council has explained that Finance does hold general information to allow a payment to be made, but this does not identify the reasons regarding why the recipient qualifies, simply the fact that they do. The council has stated that there is no business or statutory requirement to categorise a learning disability further in respect of administering payments.
12. The Commissioner accepts that due to the fact that direct payments are made under generic headings such as learning disability, the Finance Department does not hold the requested information in a readily available format which determines the specific condition for which the payment is being made. However, the Commissioner therefore considered the extent to which the requested information could be collated from other information held by the council.

13. In relation to this, the Commissioner's guidance for determining whether a public authority holds information states:

"A public authority will hold information if it holds the building blocks required to generate it and no complex judgement is required to produce it."

14. The council has explained that it may hold some information about people with Asperger's Syndrome within the social workers' reports on individuals; however, to directly link that condition to a direct payment it would require complex judgment. For instance, the council has advised that a person may have Asperger's Syndrome but is actually receiving direct payments due to another condition or conditions, and as such, the direct payment may not fall under the learning disability heading.
15. The Commissioner accepts that in order to determine whether an individual is receiving a direct payment specifically in relation to suffering from Asperger's Syndrome, the council would be required to undertake a detailed analysis of individual social work reports, then cross reference this with the direct payments information. However, as noted at paragraph 13, an individual suffering from Asperger's Syndrome may be receiving direct payment for another reason, and therefore would not be cross referenced with the learning disability direct payment information. It therefore appears that even if the council undertook this work, it would not be guaranteed to provide the requested information.
16. In order for the council to provide the number of individuals receiving direct payments for Asperger's Syndrome, it would be required to create information from the building blocks using complex judgement. As the FOIA relates only to recorded information and does not require public authorities to create information the Commissioner is satisfied that on the balance of probabilities, the requested information is not held.
17. The Commissioner therefore finds that the council was correct to respond to the complainant's request stating that the requested information is not held.

Right of appeal

18. 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

19. 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.
20. 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

Andrew White
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