

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 6 February 2024

Public Authority: Department for Education
Address: Sanctuary Buildings, Great Smith Street
London
SW1P 3BT

Complainant: Adam Howarth
Address: adamhowarth401@hotmail.com

Decision (including any steps ordered)

1. The complainant has requested information about the Department for Education's Voluntary Exit Scheme. The Department for Education ("the DfE") refused the request as it considered that compliance would exceed the cost limit under section 12 FOIA.
2. The Commissioner's decision is that the DfE has correctly cited section 12(1) FOIA, in response to the request. It has also complied with its duty to provide advice and assistance in line with the requirements of section 16 FOIA.
3. The Commissioner does not require the DfE to take any steps.

Request and response

4. On 28 June 2023, the complainant wrote to the DfE and requested information in the following terms:
 1. "How many DfE Employees submitted a request for an internal Managed Move between 11th February 2021 and 11th August 2021, and 11th April 2022 to 8th September 2022, requesting

- redeployment as a reasonable adjustment under the Equality Act 2010 that was disability related, and how many of those requests were successfully actioned by the DfE?
2. How many DfE Employees applied for the DfE's Voluntary Exit Scheme (VES) in November 2022?
 3. How many DfE Employees that applied for VES were successful in achieving voluntary exit from the DfE in March 2023?
 4. How many DfE Employees that applied for VES were unsuccessful in achieving voluntary exit from the DfE in March 2023? and what were the main reasons for this?
 5. How many DfE Employees applications were accepted by the VES Scheme, but then were deemed ineligible, and what were the grounds for those applications being deemed ineligible?"
5. The DfE responded on 17 July 2023. It refused to provide it, citing the cost limit exemption under section 12 FOIA. The DfE explained that, due to the nature of the request, it was not possible to offer advice and assistance which would enable all the information to be provided without exceeding the cost limit. However, they advised they might be able to comply with a refined request consisting of parts two to five. The DfE maintained this position at internal review.

Reasons for decision

6. Section 12 of the FOIA allows a public authority to refuse to deal with a request where it estimates that it would exceed the appropriate limit to:
 - either comply with the request in its entirety, or
 - confirm or deny whether the requested information is held.
7. The estimate must be reasonable in the circumstances of the case. The appropriate limit is currently £600 for central government departments and £450 for all other public authorities. Public authorities can charge a maximum of £25 per hour to undertake work to comply with a request; 24 hours work in accordance with the appropriate limit of £600 set out above, which is the limit applicable to the DfE.
8. A public authority is only required to provide a reasonable estimate or breakdown of costs and in putting together its estimate it can take the following processes into consideration:
 - determining whether it holds the information;
 - locating the information, or a document which may contain the information;

- retrieving the information, or a document which may contain the information; and
 - extracting the information from a document containing it.
9. Where a public authority claims that section 12 of FOIA is engaged it should, where reasonable, provide advice and assistance to help the requester refine the request so that it can be dealt with under the appropriate limit, in line with section 16 of the FOIA.

Would the cost of compliance exceed the appropriate limit?

10. As is the practice in a case in which the public authority has informed the complainant that it holds the information, the Commissioner asked the DfE to provide a detailed estimate of the time or cost taken to provide the information falling within the scope of this request.
11. In its submission to the Commissioner, the DfE explained the department does not hold a centralised record of Managed Move requests. To collate this information, it would have to engage with every departmental official within the DfE, totalling over seven thousand individuals. Even staff who are not managers could plausibly have line-managed another individual during the period, meaning all would need to be contacted.
12. Officials would then need to examine all emails returned individually to determine if they fell in the scope of the request. With a conservative assumption of two minutes per email and the potential for over seven thousand emails, this would mean a minimum of 233 hours to respond to the first element of the request alone, without accounting for any time needed to chase or clarify responses from officials.
13. The Commissioner considers that the DfE's estimate that it would take more than the 18-hour limit to respond to the request is reasonable. The DfE was therefore correct to apply section 12(1) of FOIA to the complainant's request.

Section 16(1) – The duty to provide advice and assistance

14. Section 16(1) of FOIA provides that a public authority should give advice and assistance to any person making an information request. Section 16(2) clarifies that, providing an authority conforms to the recommendations as to good practice contained within the section 45 code of practice in providing advice and assistance, it will have complied with section 16(1).
15. The Commissioner notes that, in both its responses and internal review response, the DfE suggested that it may be able to provide a response

to a request with a narrower scope but advised that exemptions may still apply. The DfE invited the complainant to specify if there was a particular area of work they would like information on, and it also signposted the complainant to its website. The Commissioner is therefore satisfied that the DfE met its obligations under section 16 of FOIA.

Right of appeal

16. 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

17. 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.
18. 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

Susan Duffy
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF