

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 19 March 2024

**Public Authority:** West Sussex County Council  
**Address:** County Hall  
Chichester  
West Sussex  
PO19 1RQ

#### Decision (including any steps ordered)

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1. The complainant has requested statistical information about the number of employees working outside the UK, or who have been given permission to. West Sussex County Council ("the Council") refused to comply with the request under section 12(1) of FOIA (cost of compliance).
2. The Commissioner's decision is that the Council has correctly applied section 12(1), and has complied with the duty to provide advice and assistance under section 16. However, the Council breached section 17 by failing to issue a refusal notice within the statutory period.
3. The Commissioner does not require further steps.

#### Request and response

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4. On 4 September 2023, the complainant wrote to the Council and requested information in the following terms:
  1. How many West Sussex County Council staff have been granted permission to work from overseas in the last three years?

2. How many West Sussex County Council staff currently work from overseas?

herewith two revised questions that can just be answered YES, or NO:

1. are any WSCC staff working from overseas?
  2. do WSCC know where all their staff are working from?
5. The Council responded on 15 November 2023. It refused to comply with the request under section 12(1) but provided some information about its policy on employees working outside the UK.
  6. On 21 November 2023, the complainant wrote to the Council and explained that they were dissatisfied with the Council's response. The Commissioner notes that the complainant did not dispute the Council's application of section 12(1), but rather, explained that they were dissatisfied that the Council did not centrally record the requested information.
  7. Following an internal review, the Council wrote to the complainant. In this it maintained its position that that the information was not held centrally. The Commissioner notes that the Council largely treated this as a corporate complaint matter, rather than a complaint about the Council's response under FOIA.

### **Scope of the case**

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8. The complainant contacted the Commissioner on 2 January 2024 to complain that they were dissatisfied that the Council did not centrally record the requested information.
9. The Commissioner notes, for the benefit of the complainant, that FOIA does not prescribe how public authorities should record information, and the Commissioner cannot compel a public authority to change how it does so.
10. The FOIA only provides a right of access to information, and in cases such as this, the extent of the Commissioner's role is to consider whether a public authority has complied with the law in how they have handled the request.
11. This case is therefore limited to considering whether the Council is entitled to refuse the request on the grounds that it would exceed to appropriate limit in costs under section 12(1)).

## Reasons for decision

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12. Under section 12(1), the appropriate limit in costs for the Council as a local public authority is £450, or 18 hours of officer time.
13. The Commissioner has reviewed the Council's position, as stated in its response to the request.
14. From this the Commissioner understands that the Council does not have a centralised system that records if an employee is working outside the UK, or if they have been given permission to. Instead, any decision to allow an employee to temporarily work outside the UK falls to their line manager, with any recording of this only made in within that 'Service Team'. Consequently, compliance with the request would require the Council to contact each of its approximately 900 line managers and ask them to search for and compile the information.
15. It is not clear to the Commissioner whether the Council has undertaken a sampling exercise to estimate how long searching and compiling the information would take. However, the Commissioner notes that even allowing two to three minutes for each line manager to perform a cursory review of their personnel records for the past three years, this would still represent 30 to 45 hours of officer time.
16. The Commissioner has considered this and is satisfied that compliance with the request would exceed the appropriate limit of £450, or 18 hours of staff time.
17. Therefore, the Commissioner's decision is that the Council was correct to apply section 12(1) of FOIA to the request.
18. When section 12(1) is engaged the Commissioner will typically consider whether a public authority can provide appropriate advice and assistance to the requester (under the duty to do so at section 16 of FOIA), so that they may refine the request to within the appropriate limit.
19. However, in this case the Commissioner recognises that there is no feasible way to refine the request. The request seeks statistical information about the Council that can only be collated through the steps noted above. In these circumstances, the Commissioner recognises that there is no meaningful advice and assistance that the Council can offer to refine the request.
20. Therefore, the Commissioner has not found a breach of section 16.

## **Procedural matters**

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21. The Council failed to issue a refusal notice in response to the request within the statutory time period, the Commissioner has therefore found a breach of 17(1) of FOIA.

## **Right of appeal**

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22. 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)

23. 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.
24. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

**Daniel Perry**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**