

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 13 November 2019

Public Authority: Sheffield Hallam University (the University)

Address: City Campus
Howard Street
Sheffield
S1 1WB

Decision (including any steps ordered)

1. The complainant has requested information relating to payments of income from the University following expiration of their contractual entitlement to sick pay. The University refused to comply with the request under section 12 FOIA.
2. The Commissioner's decision is that the University was correct to apply section 12 FOIA and that it was not therefore obliged to comply with the request. The Commissioner does not however consider that the University provided the complainant with appropriate advice and assistance in accordance with its obligations under section 16 FOIA.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
 - Provide the complainant with appropriate advice and assistance in accordance with the University's obligations under section 16 FOIA.
4. The public authority must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Act and may be dealt with as a contempt of court.

Request and response

5. On 27 January 2019 the complainant made the following request for information under the FOIA for:

"In each of the last ten years how many people received payments of income from Sheffield Hallam University after their contractual entitlement to sick pay expired?

Of those that received such an income, please state for how long and what were their medical conditions?"

6. On 14 February 2019 the University responded. It refused to comply with the request under section 12 FOIA (cost limit).
7. The complainant requested an internal review on 15 February 2019. The University sent the outcome of its internal review on 12 March 2019. It upheld its original position.

Scope of the case

8. The complainant contacted the Commissioner on 4 March 2019 to complain about the way the request for information had been handled.
9. The Commissioner has considered whether the University was correct to apply section 12 FOIA to the request in this case.

Reasons for decision

Section 12 – cost exceeds appropriate limit

10. 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 cost limit to:
- either comply with the request in its entirety, or
 - confirm or deny whether the requested information is held.
11. 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 for central government departments; 18 hours work for all other public authorities. If an authority estimates that complying with a request may cost more than the cost limit, it can consider the time taken to:

- (a) determine whether it holds the information
- (b) locate the information, or a document which may contain the information
- (c) retrieve the information, or a document which may contain the information, and
- (d) extract the information from a document containing it.

12. The appropriate limit for the University is £450 or the equivalent of 18 hours work.
13. The University explained that it has over 4000 members of staff. It explained that there are some records that list members of staff whose long-term sickness is or has been managed by the Human Resources and Organisational Development Directorate (HROD) however the University deals with up to 15 new cases of long-term sickness absence each month.
14. The University said that the Information Governance (IG) contact in HROD requested information about the employees whose sick pay expired from the Process team within HROD. It took 2 hours for the Process Team to complete the report using the Core BI system. The University's corporate HR system is "Core" and Core BI is the management reporting part of the system. The 2 hours comprised the following steps:
 - Checked with the Payroll and Management Information team on the appropriate report to run through Core BI.
 - Ran an Absence Management Maintenance by Person report in Core BI.
 - Checked with the Management Information team on the appropriate field to identify a reduction to zero hours sick pay because of exceeding allowance.
 - Due to the volume of data exported, the team reduced the report down to records relating to allowance exceeded only and combined the data in Excel.
 - Formatted into pivot table to collate information relating to individual staff members and individual sickness instances.

- Removed records other than the first instance of sick pay reducing to zero for each sickness instance. This step removed additional /unnecessary data – the list of illness dates where the sick pay is already at zero were originally all listed line by line. It wanted to establish how many times per instance of illness per staff member sick pay was reduced to zero – so the first line for each instance was the only line necessary.
 - Ran current staff report.
 - Cross-referenced staff numbers with current staff report to identify leavers. These last two steps were in order to understand where the employee files are held – either in current staff filing system or in past staff archives.
15. The final report comprised 326 lines from March 2013 when Core was first introduced and staff data was migrated across from the previous system. The University no longer has access to the previous HR system, so information for cases prior to March 2013 is not held by the University. Illness may have started prior to the Core migration but the first instances of zero pay recorded on Core are from 2013.
 16. The 326 lines of data related to a total of 182 people, as some have gone into zero pay a number of times whilst in employment. This is broken down as 87 leavers and 95 current members of staff.
 17. The University took a sample of 10 from the list, this included 5 current members of staff and 5 leavers. It checked their hard copy files and electronic files. The size of the files varied per individual, some staff had large or multiple files and some had multiple instances of sick pay expiring. The process was slightly different for current staff than those who had left the University.
 18. It first provided the Commissioner with a break- down of the time implications for 5 leavers.
 19. The University first had to check multiple archiving spreadsheets to find out which archive boxes contained the files for the 5 leavers. Checks were made against staff names and identification numbers as some staff have similar names. This took 5 minutes for all 5 leavers.
 20. Next the University retrieved the 5 relevant files from archive. University policy is not to allow members of staff into the archive alone. This process took 20 minutes to complete for the 5 files and so because 2 members of staff had to be present the University counted this element of staff time twice, thereby bringing the estimate to 40 minutes. It confirmed that there would be a total of 87 files to retrieve from archive to comply with the request in full. This would therefore require multiple

trips however it did acknowledge that it may be possible to retrieve more than 5 files in one trip. It also confirmed that there is not a working area within the archive itself and therefore the files had to be taken away to work upon them.

21. The University then said it took 28 minutes to manually check the 5 files it had retrieved. The University has said that it is likely that electronic files would also need to be checked. It therefore checked the electronic filing system which took 25 minutes for the 5 files. It then took a minute to extract the information for the request.
22. In total it took the University 99 minutes for the 5 sample files so 19.8 minutes on average per file.
23. The University has confirmed that there are 87 files that would need to be retrieved from archive. At an average of 19.8 minutes per files this equates to over 28 hours work.
24. It then provided the Commissioner with a break- down of the time implications for 5 existing members of staff.
25. The University explained that hardcopy/paper files for current staff are kept in a filing area in the HROD Directorate. It said that to locate and retrieve 5 files from this filing system took 5 mins. It then took 20 minutes to manually check 5 paper/hard copy files. It then took 27 minutes to check the 5 electronic files. It then took 1 minute to record the findings. The total time taken for the 5 sample files was 53 minutes (so 10.6 minutes per file.).
26. It confirmed that the estimate for 95 current members of staff, based on the average time of 10.6 minutes per person from the sampling exercise, was 1007 minutes or 16.8 hours work.
27. In total the University therefore estimates that it would take 44.8 hours to comply with the request.
28. The IG contact in HROD and their manager have confirmed that they have explored all the options for extracting and obtaining this information from the University's records and have provided assurances that this is the only possible method for obtaining the information. It has confirmed that both manual and electronic records would need to be searched.
29. Based upon the University's submissions, the Commissioner would agree that it would exceed the cost limit to comply with this request given there are 87 leavers files that would need to be retrieved from archive and checked for relevant information which the University has estimated would take 28 hours work. There are further files that would be relevant

to the scope of the request that would not need to be retrieved from archive but still searched for relevant information. That is the 95 files for current members of staff which the University has estimated would take another 16.8 hours work. This would increase the time implications further. As the overall estimate vastly exceeds the 18 hour time/cost threshold, the Commissioner accepts that section 12 FOIA was correctly engaged in this case.

Section 16 – Advice and Assistance

30. Under section 16 FOIA the University is obliged to provide the complainant with advice and assistance to help enable the complainant to refine the request to fall within the cost limit or explain why this would not be possible.
31. In this case the University provided the complainant with a time estimate as to how long it would take it to search each file but it did not give any further indication as to how the request could be refined nor did it indicate that this would not be possible.
32. The University has now confirmed that on reflection, it could have suggested reducing the time period of the request to ensure that it fell within the appropriate cost limit. This would however have been difficult to determine with any accuracy before it had undertaken the additional two hours of work to produce a list for the sampling exercise. It said that based upon this list, the complainant could submit a request for a smaller sample or a smaller time period which would fall within the appropriate cost limit. For instance, data for the last three years would be likely to fall within or just outside the appropriate cost limit, so it would be prepared to undertake the necessary searches for this data. This has not as yet been communicated to the complainant.
33. The Commissioner does not consider that the University complied with obligations under section 16 FOIA when responding to this request. The University has however explained to the Commissioner the advice and assistance it would now be able to provide.

Right of appeal

34. 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: 0870 739 5836
Email: grc@Justice.gov.uk
Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

35. 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.
36. 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.....

Gemma Garvey
Senior Case Officer

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