

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 16 May 2023

**Public Authority:** Sheffield City Council

**Address:** Town Hall  
Pinstone Street  
Sheffield  
S1 2HH

#### **Decision (including any steps ordered)**

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1. The Commissioner's decision is that, in respect of requests 1 and 3, the Council is entitled to rely on section 12(1) (cost limit) of the FOIA to refuse to provide the requested information.
2. However, he finds that the Council failed to provide reasonable advice and assistance in respect of requests 1 and 3, and therefore failed to meet its obligations under section 16(1) of the FOIA.
3. The Commissioner requires the Council to take the following steps to ensure compliance with the legislation.
  - The Council must provide the complainant with reasonable advice and assistance in respect of requests 1 and 3 to help them submit a request falling within the appropriate limit.
4. The Council 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 FOIA and may be dealt with as a contempt of court.

## Request and response

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5. The complainant made the following information requests to the Council on 11 January 2023:

“1. Please provide email correspondence between SCC officers ([names redacted]) amongst themselves and with councillors regarding Carfield between April 2022 and December 2022.

2. Please provide email correspondence between [names redacted] to the Regional Schools Commissioner and OFSTED only regarding Carfield between April 2022 and December 2022.

3. Please provide all email correspondence between [names redacted] at Mercia academy regarding Carfield between January 2022 and October 2022.

4. Please provide email correspondence from the head of school at Carfield and [names redacted] dated the 03.11.2022.

5. Please provide any subsequent email sent from [name redacted] after the email of 03.11.2022 to [names redacted].

6. Please provide the following information:

a. The number of head teachers from a maintained school whom have been suspended pending investigation in the last 5 years

b. The ethnicity of the head teachers from a maintained school whom have been suspended pending investigation in the last 5 years.

7. Please provide the total number of complaints parents have made from Astrea Academy Burngreave to officers and elected members at SCC in the last 3 years.

8. Please provide the ethnicity of the parents who made the complaints from Astrea Academy in the last year.

9. A public meeting was held with Astrea parents on the 06.10.2022 with elected members. Please confirm the total number of parents and their ethnicity at this meeting.

10. Please provide a copy of the council's vexatious complaints policy

11. Please provide a copy of the council's vexatious complaints policy in relation to maintained school."
6. The Council responded on 8 February 2023 and refused to provide the information requested in requests 1, 2 and 3 citing section 12 (cost limit) of the FOIA as its basis for doing so. The Council also refused to provide the information requested in requests 4 and 5 citing sections 40(2) (personal information) and section 42 (legal professional privilege) respectively.
  7. The Council provided the complainant with the information requested in request 7 and provided a link to where the information requested in requests 10 and 11 could be found in the public domain. However, it denied holding the information requested in requests 6, 8 and 9.
  8. On 9 February 2023, the complainant requested an internal review. The Council provided the complainant with the outcome of its internal review on 24 March 2023. The Council revised its position. It maintained its reliance on section 12 of the FOIA to refuse to provide the information requested in requests 1 and 3 but it denied holding information within the scope of request 2 apart from of one email.

## **Reasons for decision**

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9. This reasoning covers whether the Council is entitled to rely on section 12(1) of the FOIA to refuse to provide the information requested in requests 1 and 3.

### **Section 12(1) – cost of compliance**

10. Section 12(1) of the FOIA states that a public authority is not obliged to comply with a request for information if the authority estimates that the cost of complying with the request would exceed the appropriate cost limit. The appropriate limit for the public authorities such as the Council is £450. As the cost of complying with a request must be calculated at the rate of £25 per hour, section 12(1) effectively imposes a time limit of 18 hours for the Council.
11. A public authority can only take into account the cost it reasonably expects to incur in carrying out the following permitted activities in complying with the request:
  - determining whether the information is held
  - locating the information, or a document containing it

- retrieving the information, or a document containing it
  - and extracting the information from a document containing it
12. In its submissions to the Commissioner, the Council explained that it has conducted a Microsoft e-Discovery search of relevant mailboxes for information relating to Carfield Primary School from within the requested time periods. This search located 4613 emails which may fall within the scope of requests 1 and 3.
  13. The Council explained that in order provide the information requested in requests 1 and 3, it would need to download the 4613 emails from its Microsoft e-Discovery which may take several hours. The Council explained that once it had downloaded each of 4613 emails, it would then be able to review each email and determine whether it fell within the scope of either request 1 or request 3. It estimates that it would take approximately one minute to review each email.
  14. The Council explained that due to length of time it would take to download the 4613 emails from its Microsoft e-Discovery system, it has been unable to undertake sampling exercise. However, one officer named in the request has undertaken a search of the records they held. This search identified 380 documents relating to Carfield and 32 documents relating to Mercia Learning Trust which may fall within the scope of the requests 1 and 3. The Council estimates that it would take approximately one minute to review one page of a document. As some of the documents located as a result of the officer's search are over 60 pages the Council considers that the cost of reviewing just the documents held by the officer would exceed the appropriate limit.
  15. The Council considers the Microsoft e-Discovery search to be the quickest and most efficient method of locating and retrieving the information requested in requests 1 and 3.
  16. The Commissioner's guidance states that in cases where multiple requests have been made within a single item of correspondence, each request should be considered as a separate request for the purpose of section 12 of the FOIA. Therefore, as per his guidance, the Commissioner considers the request in this case to consist of 11 separate requests rather than one request made up of multiple parts.
  17. The Commissioner considers the Council's estimate of one minute to review each of the 4613 emails and determine whether they fall within the scope of either request 1 or request 3 to be reasonable. He has calculated that if the Council was to take one minute to review each of the 4613 emails, in total it would take the Council 76.9 hours to provide the information requested in requests 1 and 3 (1 minute x 4613 emails

= 76.9 hours) and so the cost of complying with requests 1 and 3 exceeds the appropriate limit.

18. The Commissioner's decision is that the Council estimated reasonably that the cost of complying with requests 1 and 3 would exceed the appropriate limit. Therefore, the Council is entitled to rely on section 12(1) of the FOIA to refuse to comply with requests 1 and 3.

### **Section 16 – advice and assistance**

19. Section 16(1) of the 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<sup>1</sup> in providing advice and assistance, it will have complied with section 16(1).
20. In its internal review response, the Council advised the complainant that they could narrow the scope of their requests. It suggested that the complainant could request the service level agreement between the Mercia Learning Trust and Carfield Primary School for leadership and management support. It stated that this information is a matter of public interest and appropriate to an FOI request.
21. The Commissioner considers that the Council has not provided the complainant with reasonable advice and assistance in this case. Whilst the Council has suggested to the complainant that they could request a service level agreement between Mercia Learning Trust and Carfield Primary School, the Commissioner considers that the Council could have offered more relevant advice and assistance. For example, the Council could have advised the complainant that they could refine the scope of requests 1 and 3 by reducing the time period the requests.
22. Therefore, the Commissioner's decision is that the Council did not provide the complainant with reasonable advice and assistance in respect of requests 1 and 3 and therefore breached section 16(1) of the FOIA.

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<sup>1</sup> <https://www.gov.uk/government/publications/freedom-of-information-code-of-practice>

## **Other matters**

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23. The Commissioner reminds the Council that in cases where multiple requests on the same or similar topics have been made by the same individual within 60 working days, a public authority has the option to aggregate the requests for the purposes of section 12. If a public authority estimates that the cost of complying with some of the aggregated requests would exceed the cost limit, that public authority would be entitled to refuse to comply with all the requests even if it could comply with some of the requests within the cost limit. The Commissioner has published detailed guidance for public authorities on the application of section 12 of the FOIA.

## Right of appeal

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24. 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)

25. 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.
26. 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

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