

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 19 October 2023

Public Authority: City of Bradford Metropolitan District Council

Address: Britannia House
Hall Ings
Bradford
BD1 1HX

Decision (including any steps ordered)

1. The complainant has requested information from City of Bradford Metropolitan District Council ("the Council") relating to direct care payments. The Council provided the complainant with the information requested in parts 1, 3 and 4 of the request but refused to provide the information requested in part 2 of the request citing section 12(1) of FOIA as its basis for doing so.
2. The Commissioner's decision is that the Council is entitled to rely on section 12(1) (cost limit) to refuse to provide the information requested in part 2 of the request. He also finds that the Council met its obligations under section 16(1) of FOIA to offer advice and assistance.
3. The Commissioner does not require the Council to take any steps.

Request and response

4. On 14 June 2023, the complainant wrote to the Council and requested information in the following terms:

"On the 28th of November 2009, a WhatDoTheyKnow requestor had asked the following questions:

Question 1) What is the maximum weekly amount paid by Bradford Metropolitan District Council to any individual under the Direct Payment scheme?

Q2) What is the maximum weekly amount paid by Bradford Metropolitan District Council to any individual under the Direct Payment scheme for the care of a relative?

Q3) What is the maximum weekly amount paid by Bradford Metropolitan District Council to a care home for the care of an individual at present?

Q4) What is the maximum weekly amount paid by Bradford Metropolitan District Council to a nursing home for the care of an individual at present?

On the 30 December 2009, the questions had been addressed as follows :

Answer 1) The maximum weekly amount paid by BMDC to an individual is £3,169.01

A2) The Council does not pay Direct Payments for care of relatives

A3) Maximum care home payment for an individual is £1,865.01 per week.

This is the SSD contribution only and excludes client's contribution.

A4) Maximum nursing home payment for an individual is £1,745.52 per week. This is the SSD contribution only and excludes client's contributions.

Reference :<https://www.whatdotheyknow.com/request/d...>

Please can you kindly update your 2009 answers to these questions with figures for the financial year ending in 2023."

5. The Council provided the complainant with the information requested in parts 1, 3 and 4 of the request. However, it refused to provide the information requested in part 2 of the request citing section 12 (cost limit) of FOIA as its basis for doing so.

Reasons for decision

6. This reasoning covers whether the Council is entitled to rely on section 12(1) of FOIA to refuse to provide the information requested in part 2 of the request.

Section 12(1) – cost of compliance

7. 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 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.
8. 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
9. In their complaint to the Commissioner, the complainant stated that the Council informed them in 2009 that it does not make direct care payments to individuals for the care of relatives. The complainant considers that if this is still the case, section 12 would not apply to part 2 of their request as the Council would not need to carry out any searches as the requested information would not be held.
10. In its submissions to the Commissioner, the Council confirmed that it makes direct care payments to individuals for the care of relatives in some circumstances. The Commissioner has also reviewed the Council's

website where it confirms that this is the case¹. Therefore, the Commissioner is satisfied that the Council makes direct care payments to individuals for the care of relatives.

11. The Council explained that in order to provide the information requested in part 2 of the request, it would need to manually review the support plans and care notes of 1300 service users to establish which service users are cared for by a relative and whether those relatives are receiving direct care payments as this information is not recorded in a standardised reportable format. The Council explained that once it had identified the service users whose relatives are receiving direct care payments for their care, it could then identify the maximum weekly amount paid by the Council to those relatives.
12. Based on a sampling exercise, the Council estimates that it would take approximately 15 minutes to review the support plan and case notes of each of its 1300 service users. Therefore, the Council calculated that in total, it would take 325 hours to provide the information requested in part 2 of the request.
13. The Commissioner considers the Council's estimate of 15 minutes to review the support plan and case notes of each service user to be reasonable. Even if the Council was to take 1 minute to review the support plan and case notes of each service user the cost of complying with part 2 of the request would exceed the appropriate limit.
14. The Commissioner's decision is that the Council estimated reasonably that the cost of complying with part 2 of the request would exceed the appropriate limit. Therefore, the Council is entitled to rely on section 12(1) of FOIA to refuse to comply with part 2 of the request.

Section 16 – advice and assistance

15. 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 practice² in providing advice and assistance, it will have complied with section 16(1).

¹ <https://www.bradford.gov.uk/adult-social-care/paying-for-support/direct-payments>

² <https://www.gov.uk/government/publications/freedom-of-information-code-of-practice>

16. In its initial response and its internal review response, the Council did not provide the complainant with advice and assistance to help them refine the scope of part 2 of their request. However, a public authority's obligation to provide advice and assistance under section 16(1) of FOIA only extends so far as it would be reasonable to expect the public authority to do so.
17. In this case, the Commissioner has been unable to identify any advice and assistance which could have been provided by the Council that would have assisted the complainant in refining part 2 of the request so that it falls within the appropriate limit. He is therefore satisfied that the Council met its obligations under section 16(1) of FOIA.

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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

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

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