

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 14 February 2024

Public Authority: Bradford Children and Families Trust

Address: Sir Henry Mitchell House
4 Manchester Road
Bradford
BD5 0AL

Decision (including any steps ordered)

1. The complainant requested information from Bradford Children and Families Trust (BCFT) relating to staff numbers. BCFT refused the request citing section 12 (cost limit) of FOIA.
2. The Commissioner's decision is that BCFT was not entitled to refuse to comply with the request under section 12(1) of FOIA.
3. The Commissioner requires BCFT to take the following steps:
 - Issue a fresh response to the request that does not rely on section 12(1) of FOIA.
4. BCFT 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 FOIA and may be dealt with as a contempt of court.

Request and response

5. On 19 July 2023, the complainant made the following request for information:
- “1. Can you please provide the total number for the following as of Wednesday 19th July 2023 – number of permanent members of staff
- number of temporary staff
 - number of agency workers
 - number of contractors
 - number of consultants such as KPMG etc
2. Can you please provide for each of the following the numbers that have left from 1st April 2023, to Wednesday 19th July
- permanent members of staff
 - temporary members of staff
 - agency workers
 - contractors
 - consultants
3. Can you also provide me the number of staff that are on short term sickness ie less than 4 weeks and the number of long term staff more than 4 weeks this should be broken down for permanent and temporary staff as on Wednesday 19th July 2023”
6. BCFT responded on 4 August 2023. It provided some information, but stated that other information within parts one and two of the request was not available.
7. Following an internal review of the request it applied section 12(1) of FOIA (cost limits) to refuse the request.
8. In a further response, BCFT supplied the complainant with information relating to agency workers, but advised that the information relating to consultants and contractors was ‘not available’.

Reasons for decision

Section 12 – cost of compliance

9. This reasoning covers whether BCFT is correct to apply section 12(1) - cost limit, of FOIA to the request.
10. Section 12(1) 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 limit” as set out in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 (“the Fees Regulations”).
11. The appropriate limit is set in the Fees Regulations at £600 for central government, legislative bodies and the armed forces and at £450 for all other public authorities. The appropriate limit for BCFT is £450.
12. The Fees Regulations also specify that the cost of complying with a request must be calculated at the rate of £25 per hour, meaning that section 12 effectively imposes a time limit of 18 hours for BCFT.
13. The Fees Regulations state that the activities that can be taken into account when forming a cost estimate are:
 - 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.
14. At internal review BCFT refused the request, stating that it would take in excess of 2.5 working days to locate any recorded information.
15. The Commissioner asked BCFT to provide a detailed explanation of its estimate of the time taken to provide the information falling within the scope of this request.
16. BCFT has not engaged with the Commissioner to provide any details of its estimate of the cost of compliance with the complainant’s request, despite being given more than one opportunity to do so.
17. Therefore the Commissioner must conclude that section 12 is not engaged and BCFT were not entitled to rely on it to refuse the request.
18. The Commissioner requires BCFT to issue a fresh response to the complainant’s request that does not rely on section 12 of FOIA.

Other matters

19. Within its response to the complainant, BCFT described some information as "not available", but provided no further explanation.
20. The Commissioner would advise BCFT that a response which states that information is "not available" does not comply with section 1 of FOIA.
21. To comply with section 1 of FOIA a public authority must provide a clear statement which confirms or denies if the requested information is held.
22. Stating "not available" does not equate to a clear statement confirming or denying whether the requested information is held.
23. When responding to FOI requests BCFT must ensure that it states clearly whether or not the requested information is held.

Right of appeal

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: 0300 1234504

Fax: 0870 739 5836

Email: grc@justice.gov.uk

Website: 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

Ben Tomes
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