

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 26 April 2024

Public Authority: Milton Keynes Council
Address: Civic Offices
1 Saxon Gate East
Milton Keynes
Buckinghamshire
MK9 3HG

Decision (including any steps ordered)

1. The complainant requested information from Milton Keynes Council (“the Council”) that had been logged in its customer management system over the course of the preceding year. The Council refused the request, citing section 12(1) (cost limit) 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) of FOIA to refuse to comply with the request. He also finds that the Council met its obligations under section 16(1) of FOIA to provide advice and assistance.
3. The Commissioner does not require further steps.

Request and response

4. On 20 September 2023, the complainant wrote to the Council and requested information in the following terms:

“I would like data from the call management system (CMS) accessed by the public via <https://mycouncil.milton-keynes.gov.uk/> and used by staff to log issues phoned/emailed in by the public.

The data needs to be downloaded in Excel format. CSV will suffice. All cases (open, closed or any other status) are to be included.

I would like data covering 1 year up to the date when you draw the data. If the volume of data is difficult to produce or import to Excel (eg the number of records exceeds the Excel row limit) please provide as much data as possible going back from the date of drawing. You should clearly state any reasons for reducing the date range as part of your response.

The fields required are only those which appear at <https://mycouncil.milton-keynes.gov.uk/MyRequests>, specifically:

1. Case ID
2. Process
3. Case Start Date
4. Case End Date (blank if the case is not closed)
5. Case Status

None of these fields will contain any data requiring review for redaction. If the report you get does identify the customer in other fields, you can entirely remove that data. Any other fields that are included by default can be left in at your discretion.

Please also provide a list of all processes (matching item 2 above), identifying the process owner, ie the team that handles those cases. You may manually maintain a suitable list but I also imagine that, within the CMS, each process defines a mailbox to send an alert each time a new case is logged, and you can probably download this table and it should be sufficient. If this list of process owners is not readily available, please explain - it is not my intention for you to spend time manually creating this list as it would probably take you over 18 hours.

Please also provide explanations of any case status other than 'Open' and 'Closed'.

Overall, I do not expect generating the output for this request to take more than 2-3 hours, hopefully much less if you have someone well-versed in extracting CMS data."

5. The Council responded on the same day, it appears to have refused the request, although its grounds for doing so are not entirely clear, the refusal makes reference to section 40 of FOIA (personal data).

6. Following a query from the complainant about the response that had been issued, on 21 September 2023 the Council wrote to the complainant again, at this stage it indicated that it believed that it was likely that the time it would take to comply with the request would exceed the appropriate cost limit. It suggested that if the complainant specified the issue they were interested in, for example waste, parking services, fly-tipping or blue badges, that may bring the request under the cost limit.

7. On 22 September 2023 the complainant responded, stating that they wanted all data. They stated the following about why they believe it should be possible to comply with the request within the cost limit:

“This means ALL data. The fields I have requested will be in a single high-level summary table, so it only needs to be queried a single time to produce ALL records for the period I’ve requested. The table I refer to is what I see when I go to <https://mycouncil.milton-keynes.gov.uk/MyRequests>, although obviously it is filtered to only show cases under my login ID. Internally, the right person will be able to output the full table, filtering only by the required date range. (I reiterate that the fields requested will not identify the customer, and if the output you obtain includes other fields that might contain personal data, you are entirely to redact such fields and spend no time on individual redactions.)

Because all the data required is in a single table containing no personal data, it should take very little time to output and supply. (...)”

8. Following an internal review the Council wrote to the complainant on 4 October 2023. It confirmed that it was refusing the request under section 12 of FOIA (cost limit). It stated that to retrieve all of the information requested would greatly exceed the £450 costs limit. It stated that the Council would need to manually extract each process in its customer management system for each case logged and that, “due to the sheer number of different services using different processes within the same system, and the number of items logged in the timeframe concerned, this would potentially require more than 100,000 datasets to be individually extracted”. The Council also made specific reference to its obligation to provide advice and assistance and reiterated their suggestion that the complainant refine their request to focus on a specific type of complaint/query to the Council, for example waste complaints.

Reasons for decision

Section 12(1) – cost of compliance

9. Section 12(1) of 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 local 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.
10. 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.
11. A public authority does not have to make a precise calculation of the costs of complying with a request; instead only an estimate is required. However, it must be a reasonable estimate. The Commissioner considers that any estimate must be sensible, realistic and supported by cogent evidence. The task for the Commissioner in a section 12 matter is to determine whether the public authority made a reasonable estimate of the cost of complying with the request.
12. The Commissioner's guidance¹ is clear that the estimate should be based on how the public authority actually holds its records and that it should be reasonable in terms of the activities required to identify, locate and retrieve the information. It also states:

“There may well be different ways to search for the requested information. This does not mean that you have to consider every possible means of obtaining the information to produce a reasonable estimate. However, an estimate is unlikely to be

¹ <https://ico.org.uk/for-organisations/foi-eir-and-access-to-information/freedom-of-information-and-environmental-information-regulations/section-12-requests-where-the-cost-of-compliance-exceeds-the-appropriate-limit/#produce-an-estimate>

reasonable where an authority has failed to consider an obvious and quick means of locating, retrieving or extracting the information.”

13. As indicated in the correspondence exchanged between the complainant and the Council, as outlined in paragraphs 7 and 8 of this notice, the crux of this case is whether as, the Council states, it would be incredibly time consuming to retrieve the information requested. Or, whether, as the complainant suggests, this information would be straightforward for the Council to extract from its systems.
14. In its submissions to the Commissioner, the Council provided further information regarding how it had estimated that the time taken to comply with the request would exceed the appropriate cost limit of £450/18 hours. It stated that its mycouncil system covers a wide range of council services such as FOI requests, SARs, waste, blue badges, complaints, abandoned vehicles, building control and housing. Many services have more than one process on the system. The Council stated that each process would require its own report, which would need to be built for this request and that it had identified 819 such processes. It stated that it had extracted the information for one process and that this had taken over an hour. It stated that it was therefore confident in its estimate that the time it would take to comply with the request would exceed 18 hours.
15. Having received this explanation from the Council, the focus of the Commissioner's enquiries to the Council during the course of his investigation was the question of whether building and running 819 separate reports really would be the quickest method of gathering the requested information. The Commissioner asked the Council to confirm how it had determined that this would be the quickest method of gathering the requested information and whether it had consulted the most relevant staff (for example IT or data specialists) about the quickest method of gathering the requested information. The Commissioner also asked the Council to specifically confirm whether or not it was possible to run a single report for all of the data held within the mycouncil system across all services/processes as suggested by the complainant. Or if that is not possible, whether it was possible to retrieve the requested information using a much smaller number of reports than one for each of the 819 processes identified. The Commissioner asked the Council to provide details of how it had reached its conclusion and who it had consulted when reaching this conclusion.
16. The Council confirmed to the Commissioner that, “the method selected would be through use of our reporting tool. The only other method to extract this data would be a manual check of every entry on the system and we receive over 40,000 forms/contacts each month. Based on this

we are certain the selected reporting method is the quickest method of gathering the requested information". Regarding which staff had been consulted in determining the quickest method of gathering the information, the information governance team confirmed, "we consulted our Digital team, who sit within our IT team, and support us with the development of reports from this system, which require PowerBI to be interpreted. Our response was based on their advice / guidance and supported by our own experience of working on reports from this reporting tool and with this system." It also confirmed the digital team had assisted the information governance team in reaching the conclusion that it was necessary to run separate reports for each process in order to retrieve the information requested.

17. Although the complainant has requested a very large quantity of data, the Commissioner is somewhat surprised to learn that there is not a simpler way to retrieve the information requested. Nevertheless, the estimate must be based on how the information is actually held and the Commissioner is satisfied that the Council's digital team, who have advised its information governance team about this matter, are well placed to determine the quickest way of retrieving this information from its mycouncil system.
18. The Commissioner's decision is therefore that the Council estimated reasonably that the cost of complying with 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 the request.

Section 16 – advice and assistance

19. Section 16(1) of 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).
20. The code of practice states:

"Where it is estimated the cost of answering a request would exceed the "cost limit" beyond which the public authority is not required to answer a request (and the authority is not prepared to answer it), public authorities should provide applicants with

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

advice and assistance to help them reframe or refocus their request with a view to bringing it within the costs limit.”

21. In this case the Council has advised the complainant that if they were to refine their request to focus on a specific type of complaint/query to the Council, it may bring it within the costs limit.
22. The Commissioner is therefore satisfied that the Council met its obligations under section 16(1) of FOIA.

Right of appeal

23. 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

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

Victoria James
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