

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 22 November 2024

Public Authority: Rhondda Cynon Taf County Borough Council
Address: The Pavilions
Cambrian Park
Tonypany
CF40 2XX

Decision

1. The complainant submitted a request for information regarding Councillor's appointments to outside bodies. Rhondda Cynon Taf County Borough Council (the Council) provided some information within the scope of the request.
2. At internal review, the Council stated that the request exceeds the "appropriate limit" citing section 12 of FOIA and gave general guidance around refining the request.
3. The Commissioner's decision is that the Council is entitled to rely on section 12(1) (cost of compliance) of FOIA to refuse to provide the requested information.
4. No steps are required as a result of this decision.

Background

5. The complainant made an initial request on 29 January 2024. Following the Council's initial response and internal review, the complainant was advised if they submitted a revised request, it may be considered further. However, the complainant reiterated their original request and also included additional questions.
6. These additional questions are not being considered in this decision notice.
7. Following a period of correspondence between the Council and the complainant, the Commissioner intervened on 19 August 2024. The Council provided its final position at internal review on 22 October 2024, in which it upheld its position to refuse the request.

Request and response

8. The complainant made the following information request to the Council on 29 January 2024:

"Under the Freedom of Information Act and Environment Protection, please answer the following questions?

Please can you provide a list of Rhondda Cynon Taf Council Councillors' appointments to outside bodies?

Please provide what each councillor receives in remuneration and expenses for representing the residents through Rhondda Cynon Taf Council when in attendance at meetings or other duties for the outside bodies they represent for RCT Council?"
9. The Council responded on 26 February 2024 providing links to information in the public domain and guidance around how remuneration is claimed by Councillors.
10. The complainant requested a review of the Council's response on 26 February 2024 setting out their arguments to support their request.
11. The Council provided its review on 22 March 2024 where it provided a further link to information and gave a further explanation for how remuneration is determined for Councillors. The Council also explained that with regards to expenses that the total costs of providing the information would exceed the "appropriate limit" and advised a refined request focusing on a specific timeframe could be considered.

Scope of the case

12. During the Commissioner's investigation the complainant raised further questions about Councillor's remuneration, questioning the Council's review response. The scope of this investigation is with regards to the initial request for information of 29 January 2024.

Reasons for decision

13. This reasoning covers whether the Council is entitled to rely on section 12(1) of FOIA to refuse to provide information in scope of the request.
14. 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 limit" as set out in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 ("the Fees Regulations").
15. For public authorities such as the Council the appropriate limit is set in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 at £450 for public authorities.
16. The notional cost of the staff time needed to comply with a request must be estimated at a rate of £25 per person per hour. This means that section 12(1) of FOIA effectively imposes a time limit of 18 hours for the Council.
17. The position of the Council is that it considered this request against the cost limits in the Act, and with regard to expenses it would take more than 18 hours to provide a breakdown of the expense claims that were related to specific outside bodies as that would require a manual check of each individual Councillor's expense claim forms.
18. The Council states that the complainant's request covered a period of 7 years. That would necessitate a manual review of hundreds of individual expense claims over the period the request covers. On average over the 7-year period there are approximately 22 Members who have claimed expenses/travel allowance each year.
19. The Council went on to explain that:

"Each of those Members could have submitted an expense claim for each month of the year that would need to be reviewed – therefore 12 possible claims per Member. To locate, identify and extract relevant information (if any) from those claims would, on a conservative estimate, take approx. 5 minutes per claim.

Therefore $12 \times 5 = 60$ minutes per year for each Member. Twenty-two members $\times 60$ minutes = 1320 minutes (22 hours per year). Therefore $22 \times 7 = 154$ hours (6.4 days) for the 7-year period in question”.

20. The Council offered guidance on how the complainant may refine their request to potentially bring it within the cost limits. and provided advice around information available on annual audits which are carried out by Audit Wales (the independent auditor for all government sectors in Wales) which is publicly available and may contain some information in scope of the request.
21. The Commissioner’s decision is that the request exceeds the threshold for section 12 and therefore, the Council is entitled to rely on section 12(1) of FOIA to refuse to comply with the request.

Section 16 – duty to provide advice and assistance

22. Section 16 of the FOIA requires public authorities to provide reasonable advice and assistance to those making, or wishing to make, information requests. The FOIA defines specific scenarios where the duty to provide advice and assistance is triggered. One such scenario are instances where an authority applies section 12.
23. When a public authority refuses a request because the cost of compliance exceeds the appropriate limit, it should explain, to the requester, how they could refine their request such that it would fall within that limit. In some cases, it will be appropriate for the public authority to explain to the requester why their request cannot be meaningfully refined.
24. Having reviewed the Council’s correspondence the Commissioner considers the Council provided appropriate advice and assistance that was reasonable in the circumstances. He is therefore satisfied that the Council complied with its obligations under section 16.
25. The Commissioner requires no further action to be taken by the Council in relation to the request.

Other matters

26. The Commissioner notes that this case has been of a protracted nature, partially due to the Council's failings when responding to the request. It is disappointing that the Council appears to have forgotten the basics of dealing with a request, such as citing an appropriate exemption when applicable.
27. The Commissioner recommends that the Council considers reviewing its request handling procedures alongside his extensive guidance¹ and, as a minimum refer to the guidance [Refusal notice | ICO.](#)

¹ [Guide to managing an FOI request | ICO](#)

Right of appeal

28. 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

29. 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.
30. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

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