

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 12 March 2019

Public Authority: Northumbria Healthcare NHS Foundation Trust

Address: Northumbria House
7-8 Silver Fox Way
Cobalt Business Park
Newcastle upon Tyne
NE27 0QJ

Decision (including any steps ordered)

1. The complainant has requested information about transactions over £25,000. The Northumbria Healthcare NHS Foundation Trust (the Trust) says it is not obliged to comply with the request under section 12(1) of the FOIA, as it would exceed the appropriate cost and time limit to do so.
2. The Commissioner's decision is that the Trust is not obliged to comply with the request under section 12(1) and is satisfied that the Trust met its obligation under section 16 to offer advice and assistance. The Commissioner does not require the public authority to take any steps.

Request and response

3. On 29 August 2018 the complainant made the following request for information under the FOIA:

'I'm making a request under the Freedom of Information Act (2000) for information on all transactions over £25,000 from March 2014 to July 2018 for Northumbria Healthcare NHS Foundation Trust Please provide:

- *the date of transaction*
 - *the value of transaction*
 - *the recipient*
 - *category of the transaction*
- (As a minimum)*

I would like this data to be provided in a machine readable format - .csv would be the preferred format.

I have looked on your website for this information but cannot find it– I will accept the data being published on your website as adequate response to this FOI. If it is already published please send me the link to this.'

4. On 25 September 2018 the Trust responded. It refused to provide the requested information citing Section 12 of FOIA as it estimated that the cost of determining whether it held the information would exceed the cost threshold of £450. It explained that in a typical month the Trust transacts with approximately 2000 suppliers and around 14,000 invoices.
5. On 25 September 2018 the complainant requested an internal review as this information is *'open data which should already be freely available on your website'*.
6. The Trust sent the outcome of its internal review on 4 October 2018 upholding its original position. It explained that the information requested is not currently published by the Trust.
7. On 4 October 2018 the complainant made a refined request for one month of data:

'I'm making a request under the Freedom of Information Act (2000) for information all transactions over £25,000 for March 2014 for Northumbria Healthcare NHS Foundation Trust Please provide:

- *the date of transaction*
- *the value of transaction*
- *the recipient*
- *category of the transaction*

(As a minimum)

I would like this data to be provided in a machine readable format - .csv would be the preferred format.'

8. On 12 October 2018, the Trust determined that this was exempt under section 12(1).

Scope of the case

9. On 16 October 2018, the complainant contacted the Information Commissioner to complain about the way the requests for information had been handled.
10. The Commissioner's investigation has focussed on whether the Trust correctly applied section 12 to the request of 29 August 2018. She has also considered whether the Trust met its obligation to offer advice and assistance, under section 16.

11. During the Commissioner's investigation the complainant confirmed that she has not requested an internal review for the refined request of 4 October 2018.

Reasons for decision

Section 12 – cost exceeds the appropriate limit

12. Section 12 of the FOIA allows a public authority to refuse to deal with a request where it estimates that it would exceed the appropriate limit to:
 - either comply with the request in its entirety, or
 - confirm or deny whether the requested information is held.
13. The estimate must be reasonable in the circumstances of the case. The appropriate limit is currently £600 for central government departments and £450 for all other public authorities. Public authorities can charge a maximum of £25 per hour to undertake work to comply with a request; 18 hours work in accordance with the appropriate limit of £450 set out above, which is the limit applicable to the Trust.
14. A public authority is only required to provide a reasonable estimate or breakdown of costs and in putting together its estimate it can take the following processes into consideration:
 - determining whether it holds the information;
 - locating the information, or a document which may contain the information;
 - retrieving the information, or a document which may contain the information; and
 - extracting the information from a document containing it.
15. Where a public authority claims that section 12 of the FOIA is engaged it should, where reasonable, provide advice and assistance to help the requester refine the request so that it can be dealt with under the appropriate limit, in line with section 16 of the FOIA.

Would the cost of compliance exceed the appropriate limit?

16. As is the practice in a case such as this, the Commissioner asked the Trust to confirm if the information is held, and if so, to provide a detailed estimate of the time/cost taken to provide the information falling within the scope of this request.
17. In its submission to the Commissioner the Trust confirmed that it holds the invoices that would contain the information requested. The Trust has

'not previously or does not currently publish' this information for transactions over £25,000. 'As a result of this the information is not collected / collated regularly in a format / method that would allow the information to be easily pulled together.'

18. The complainant has argued that *'I do not understand how they are unable to get this data but are able to analyse their spend in their annual reports. I do also contest this calculation as I am unable to understand why such a massive organisation would not have a suitable financial system which would allow you to see past invoices – as do all other NHS Trusts that I have requested information from.'*
19. The Trust explained that *'the information that has been requested is contained within a number of separate sources within the organisation through electronic finance systems in use. Within these systems they contain the invoices processed by the Trust. These invoices would contain the information that has been requested. These systems do not have any functionality to carry out any manipulation or analysis of what is contained within each invoice. This includes only showing invoices with certain spend, in this case over £25k.'*
20. In response to the Commissioner's questions the Trust stated that *'as a result each individual invoice would require checking within the system by a member of staff who would determine if the spend exceeded £25k.'*
21. The Trust produced an estimate based on the volume of invoices for one month and 10 seconds to manually check each invoice. In a typical one month period the Trust *'contracted with approximately 2000 suppliers and a total of around 14,000 invoices were included'*. The sampling exercise carried out to estimate this time frame and volume of invoice numbers was confirmed by the Deputy Director of Finance:

14,000 invoices per typical month x 10 seconds to check = 38 hours per month.
22. The Trust confirmed that *'there is no way for the systems or via any other electronic means available to the Trust for the information contained within the invoices to be analysed. There is also no other locations that this information would be contained within.'*
23. The Trust concluded that it was unfortunate that it *'is limited in terms of technical availability to retrieve this information and the above would be the quickest and only way to pull the information that has been requested.'*
24. Although the Commissioner is sympathetic to the complainant's view that the Trust should have the ability to analyse its financial information, the Commissioner is prepared to accept that the Trust currently does not have the technical functionality to retrieve the specific information

requested by the complainant. Therefore, with a manual system, the Commissioner accepts that the Trust would take more than the 18 hour limit to respond to the request. She is therefore satisfied that the Trust is correct to apply section 12(1) to the request.

Section 16(1) – The duty to provide advice and assistance

25. 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 (the "code")¹ in providing advice and assistance, it will have complied with section 16(1).
26. The Commissioner notes that the Trust explained in some detail to the complainant its difficulties in providing the requested information and that it was based on the volume of invoices rather than the transaction value. The Trust also responded to a refined request. Therefore, the Commissioner is satisfied that the Trust complied with section 16

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

Right of appeal

27. If 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@hmcts.gsi.gov.uk

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

28. 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.
29. 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

Pamela Clements
Group Manager
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Wycliffe House
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Wilmslow
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SK9 5AF