

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 7 March 2023

Public Authority: Department for Work and Pensions

Address: Caxton House
Tothill Street
London
SW1H 9NA

Decision (including any steps ordered)

1. The complainant requested information from the Department for Work and Pensions ("the public authority"). The Commissioner's decision is that the public authority was entitled to refuse to comply with the request in accordance with section 12(1) (cost limit) of FOIA. The Commissioner also finds that the public authority did not comply with its obligations under section 16 of FOIA to offer advice and assistance.
2. The Commissioner requires the public authority to take the following steps:
 - Provide advice and assistance to the complainant to assist in submitting a request falling within the appropriate limit.
3. The public authority 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

4. On 27 October 2022, the complainant made the following request for information to the public authority:

"The CMS states that if an individual knowingly submits false information they can be prosecuted.

I wish to know the volume of prosecutions the child maintenance service attempts each year for when they learn a paying parent has knowingly disclosed false income information to the CMS to date.

I also want to know how many of these attempts are successful.

I also wish to know the CMS process for prosecuting a paying parent who has been found to knowingly supply false information to the CMS."

5. The public authority refused to provide the requested information citing section 12 (cost limit) of FOIA as its basis for doing so.

Reasons for decision

Section 12 – cost of compliance

6. This reasoning covers whether the public authority is correct to apply section 12(1) (cost limit) of FOIA to the request.¹ The appropriate limit² for the public authority in this case is £450.
7. The public authority considers that the cost of complying with this request would exceed the appropriate limit under FOIA. It has explained that, while some of the requested information is available electronically, complying with the request would also require manual searches at two different locations.
8. The public authority explained that locating and extracting the requested information would require manual examination of each case file at both sites to determine nature of the offence, whether the case was submitted/was not submitted to the Crown Prosecution Service (CPS) and the outcome.
9. The public authority estimated that it would take two members of staff five minutes to review each paper case file. The public authority

¹ <https://www.legislation.gov.uk/ukpga/2000/36/section/12>

² <https://www.legislation.gov.uk/uksi/2004/3244/regulation/4/made>

estimated that there were approximately 850 case files at one location and 2700 case files at the other location. It stated that all case files would need to be checked as civil and criminal cases are stored together. Its total estimate for the searches at both sites amounted to 147 hours.

10. When preparing its submission for the Commissioner, the public authority acknowledged that it could have explained its response more clearly to the complainant. The public authority also identified that some of the requested information for 2022 was held electronically and considered that it could have advised the complainant of this when providing advice and assistance under section 16.
11. The Commissioner is satisfied that the public authority's arguments above are justified, because it has explained that to compile the information extensive manual searches would be required. Therefore the estimated cost for obtaining the requested information is clearly in excess of the cost limit. Even were the estimate to be halved, the time taken to comply with the request would still be significantly in excess of the cost limit.
12. The Commissioner's decision is that the public authority was correct to apply section 12(1) of FOIA to the request.

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

13. 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 practice³ in providing advice and assistance, it will have complied with section 16(1).
14. The Commissioner notes that the public authority provided some advice and information on the total number of prosecutions and outcomes but it did not make any attempt to advise the complainant how they could refine their request to try to bring it within the cost limit. The Commissioner is therefore satisfied that the public authority did not meet its obligations under section 16 of FOIA. The public authority must now provide appropriate advice and assistance to the complainant including how the complainant may access the information within the

³ <https://www.gov.uk/government/publications/freedom-of-information-code-of-practice>

scope of their request that the public authority has identified it holds electronically.

Right of appeal

15. 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

16. 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.
17. 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

Michael Lea
Team Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF