

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 15 January 2013

Public Authority: Salford Primary Care Trust
Address: St James House
Pendleton Way
Salford
M6 5FW

Decision (including any steps ordered)

1. The complainant has requested information relating to the provision of augmentative and alternative communication devices by the NHS. Salford Primary Care Trust (Salford PCT) refused to comply with the request as it said it would exceed the cost limit under section 12 of the Freedom of Information Act 2000 (FOIA) to do so.
2. The Commissioner considers that section 12 of FOIA was applied correctly in this case.
3. The Commissioner requires no steps to be taken.

Request and response

4. On 11 November 2012 the complainant made the following request for information:

"I am an academic researcher, attempting to assess the provision of augmentative and alternative communication devices by the NHS. Would you please send me details of augmentative and alternative communication devices supplied/purchased by your trust between 31st March 2006 and 1st April 2011. I would like the information broken down by both product name (So for example Dynavox Xpress, iPod touch with TapToTalk, BigMack) and by year. I would like information for both children and adults, but I don't require a breakdown by age.

I attempting to find out how many people who have poor or no speech

have a speech aid, in particular electronic speech aids, and I would like to know how many have been supplied by the trust during the last five years.

Deven PCT have helpfully give examples on a previous request. The format they used was

2005/06

4 X Digital Electronic Larynxes (Servox)

2 x Listen To Me

2 x Lightwriters

1 x Dynawrite

1 x Dynamo

1 x Falck Voice Amplifier

1 x Lions Speech Aid

1 x Go Talk

1 x Little Mack

2006/07

9 x Digital Electronic Larynxes (Servox)

2 x Lightwriters

1 x mini Printer

2 x The Grid software

2 x Falck Voice Amplifiers

1 x Listen To Me

1 x Textphone

1 x Talking Symbols Notepad

and this would do nicely for me. Other excellent formats were provided by:

Bradford and Airedale Teaching PCT

(<http://www.whatdotheyknow.com/request/co...>)

Bromley PCT

(<http://www.whatdotheyknow.com/request/co...>)

Bristol PCT (

<http://www.whatdotheyknow.com/request/co...>)

and Central Lancashire PCT

(<http://www.whatdotheyknow.com/request/au...>)

Just to make the process more efficient for you guys - it would be great to clarify a couple of things at this stage - I am aware that some trusts make use of commissioning trusts to do the actual purchase of the devices; when I have contacted the commissioning trusts I've been often redirected back to the PCT because the paperwork for previous years have been stored at the PCT - this redirection must be causing additional work for both trusts in the

long run and it would be great to avoid it
(<http://www.whatdotheyknow.com/request/au...>
is an example of the problem)

Also, and again to make life easier for you, I should point about that since this request is being made via whatdotheyknow.com - email addresses are stripped out of replies to protect your privacy (because the responses are all available to public view- if you are to redirect my request to another body then it's ideal to just give the name of the body rather than just an email address"

5. On 19 December 2011 Salford PCT responded. It said that it did not hold the requested information and directed the complainant to Salford Royal NHS Foundation Trust. After writing to this alternative body the complainant was eventually redirected back to Salford PCT. Salford PCT eventually responded to the complainant on 31 May 2012 and applied section 12 FOIA as it said it would exceed the cost limit of £450 to comply with the request. On the same date the complainant asked Salford PCT to carry out an internal review of its decision. Salford PCT sent the outcome of its internal review to the complainant on 12 July 2012. Whilst it accepted the delays the complainant had experienced were unacceptable, it upheld its original position in relation to the application of section 12.

Scope of the case

6. The complainant contacted the Commissioner to complain about the way his request for information had been handled.
7. The Commissioner has considered whether or not section 12 FOIA was correctly engaged in this case.

Reasons for decision

8. Section 12 FOIA states that:

"Section 1(1) does not oblige a public authority to comply with a request for information if the authority estimates that the cost of complying with the request would exceed the appropriate limit."

9. The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 (the "Regulations") sets the appropriate limit at £450 for the public authority in question. A public authority can charge a maximum of £25 per hour for work undertaken to comply

with a request which amounts to 18 hours work in accordance with the appropriate limit set out above. If an authority estimates that complying with a request may cost more than the cost limit, it can consider the time taken in:

- (a) determining whether it holds the information,
 - (b) locating the information, or a document which may contain the information,
 - (c) retrieving the information, or a document which may contain the information, and
 - (d) extracting the information from a document containing it.
10. To determine whether Salford PCT applied section 12 FOIA correctly the Commissioner has considered the submissions provided by Salford PCT as well as the complainant.
11. Salford PCT provided the complainant with the following estimate explaining the time it would take to comply with this request for information:

• determining whether the information requested is held by NHS Salford	20-24 hours
• locating the information, or a document containing the requested information	20-24 hours
• retrieving the information, or a document containing the requested information	20-24 hours
• extracting the information from a document containing the requested information	20-24 hours
Total Number of Hours	80-96 hours
Total Costs (No of Hours x £25)	£2,400

12. Due to Salford PCT not yet using the e-procurement systems for the time period of the request, it explained that section 12 FOIA was applicable in this case. It explained that, Syntegrate (the old system) can still be used but only for enquiries. No transactions were input into the old system after 30.06.2012. It explained that the new system, the Oracle system, was implemented on 01.07.2012.

13. Salford PCT explained that Syntegrate is a database where information on products and services is entered into the system using free text. There is no functionality in the system for any type of coding; specifically e-class coding therefore the ability to generate a report on what has been spent category is not possible. Due to the lack of functionality, the only way to understand what has been purchased is to review each individual order raised by suppliers known to sell those types of products.
14. Salford PCT explained that in order to calculate the estimated number of hours it would take to complete the request the following tasks were completed. The Head of Procurement sampled how long it had taken to go through all the orders for one of its IT/electronic goods suppliers, to access the order, this included reviewing every line and every product that was on that line. Following this process, if it wasn't clear what the product was, an estimation of the time needed to assess whether each product would fall into the category of augmentative and communication devices and how quickly it would take to gain that understanding was made.
15. It confirmed that the estimate was based on the quickest form of gathering the requested information due to the lack of functionality of the system in which the requested information is held. It also confirmed that the new system cannot be used for historical reporting.
16. The complainant has said that he has contacted the manufacturers of the system in question and that the manufacturers consider that the information can be obtained from the system in which the information is held. The Commissioner acknowledges that Salford PCT has not suggested that it is unable to obtain the information requested from the system; it has however argued that the time it would take to do this would exceed the cost limit under section 12 FOIA. The complainant has also said that he would be able to fund the manufacturers to go to the site to retrieve the requested information. Notwithstanding this, if it would exceed the cost limit to comply with the request Salford PCT would not be obliged to respond despite the complainant's offer of funding.
17. The complainant has also explained that the same request was made to a number of different Trusts and that many have complied with the request. The Commissioner is unable to comment on the requests made to other public authorities as he does not have knowledge of the systems in place at the other Trusts, and furthermore whilst if it would exceed the cost limit to comply with a request a public authority is not obliged to do so, they can still choose to comply with a request.

18. In this case Salford PCT has explained that it is unable to run a search for the information requested within the system in which it is held. It has carried out a sampling exercise to enable it to determine how long it would therefore take to search for the requested information by looking through individual orders. It has said that there are 44,941 orders on the system which it would need to search through. It said it would take 1 to 2 minutes to scan through each order.
19. The Commissioner therefore considers that even if it only took 1 minute to look at each order to determine what information was held this would take 749 hours to do which would vastly exceed the cost limit. He has not therefore looked into the costs of locating, retrieving and extracting the information any further. Salford PCT has confirmed that this is the only way to obtain the information requested in this case for the reasons described above.
20. The Commissioner is therefore satisfied in this case that it would exceed the £450 cost limit under section 12 FOIA to comply with this request for information.

Right of appeal

21. 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: 0116 249 4253

Email: informationtribunal@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

22. 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.
23. 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, Complaints Resolution
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
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SK9 5AF