

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 29 September 2022

Public Authority: London Borough of Croydon
Address: 2 Borrowdale Drive
South Croydon
CR2 9JS

Decision (including any steps ordered)

1. The complainant requested information about children under local authority care. By the date of this notice the London Borough of Croydon (the Council) had not issued a substantive response to this request.
2. The Commissioner's decision is that the Council has breached section 10(1) of FOIA in that it failed to provide a valid response to the request within the statutory time frame of 20 working days.
3. The Commissioner requires the Council to take the following step to ensure compliance with the legislation.
 - The Council must provide a substantive response to the request in accordance with its obligations under FOIA.
4. The Council must take this step 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

5. On 27 July 2022, the complainant wrote to the Council and requested information in the following terms:

“Under the Freedom of Information Act 2000, please provide me with the data/information for the following questions:

1. How many children of compulsory school age do you currently (28.07.22) have under local authority care?
2. How many children have become LAC in your area each calendar year for the past 5 years?
3. How many children of compulsory school age do you currently (28.07.22) have under local authority care that are also registered as Electively Home Educated (EHE)?
4. How many children of compulsory school age do you currently (28.07.22) have under local authority care that are registered as Children Missing Education (CME)?
5. How many LAC (Looked After Children) have been Permanently Excluded this academic year (September 2021-July 2022)?
6. Please share the support the LA provide with regards to school attendance and LAC.
7. How many LAC (Looked After Children) have gone missing this year? (01.01.2022-28.07.2022)
8. As of 28.07.2022- how many LAC are known to the Youth Offending Team?

I understand that under the Act I am entitled to a response within 20 working days . Some parts of the request may be easier to answer than others. Should this be the case, I request that you release information as soon as possible. If my request is denied in whole or in part, I ask that you justify all deletions by reference to specific exemptions of the act. I will also expect you to release all non-exempt material. I reserve the right to appeal your decision to withhold any information or to charge excessive fees.

I would prefer to receive the information electronically. If you require any clarification, I expect you to contact me under your section 16 duty to provide advice and assistance if you find any aspect of this FOI request problematic."

6. The Council acknowledged the request on 28 July 2022. To date, a substantive response has not been issued.

Scope of the case

7. The complainant contacted the Commissioner on 26 August 2022 to complain about the Council's failure to respond to their request.

8. The Commissioner has considered whether the Council has complied with its obligations in relation to the time for compliance at section 10(1) of FOIA.

Reasons for decision

9. Section 1(1) of FOIA states that:

“Any person making a request for information to a public authority is entitled –

(a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and

(b) if that is the case, to have that information communicated to him.”

10. Section 10(1) of FOIA states that a public authority must respond to a request promptly and “not later than the twentieth working day following the date of receipt”.
11. On 2 September 2022 the Commissioner wrote to the Council, reminding it of its responsibilities and asking it to provide a substantive response to the complainant’s request within 10 working days.
12. Despite this intervention the Council has failed to respond to the complainant.
13. From the evidence provided to the Commissioner in this case, it is clear that the Council did not deal with the request for information in accordance with FOIA. The Commissioner finds that the Council has breached section 10(1) by failing to respond to the request within 20 working days and it is now required to respond to the request in accordance with FOIA.

Right of appeal

14. 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

15. 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.
16. 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
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