

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 17 May 2022

Public Authority: Kent County Council
Address: Sessions House
County Hall
Maidstone
Kent
ME14 1XQ

Decision (including any steps ordered)

1. The complainant requested information about school transport provided by Kent County Council. By the date of this notice Kent County Council ("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 the 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 the 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 the Act and may be dealt with as a contempt of court.

Request and response

5. On 21 February 2022, the complainant wrote to the Council and requested information in the following terms:

"REQUEST FOR INFORMATION FROM KENT COUNTY COUNCIL ('KCC') PURSUANT TO FREEDOM OF INFORMATION ACT 2000

1). Please supply me with the following information within the applicable statutory timescales:-

i. The risk assessment (or equivalent document or documents) which KCC took into account in determining whether or not it is safe to provide school transport for fifteen or sixteen disabled children of varying ages with varying special needs but with only one escort on that transport to care for those children; and

ii. any documents referred to in the risk assessment (or equivalent document or documents) ;and

iii. any further information in KCC's possession, custody or control which is relevant to determining whether or not it is safe to provide school transport for fifteen or sixteen disabled children of varying ages with varying special needs but with only one escort on that transport to care for those children; and

iv any further specific information which KCC took into account in determining whether or not it is safe for my son, [name redacted], to be transported to and from school with fourteen or fifteen other disabled children of varying ages with varying special needs but with only one escort on that transport to care for those children.

ALTERNATIVELY, IF THERE WAS NO RISK ASSESSMENT THEN PLEASE PROVIDE THE FOLLOWING INFORMATION :-

i. All information (including expert evidence) which KCC took into account in determining whether or not it was safe to provide school transport for fifteen or sixteen disabled children of varying ages with varying special needs but with only one escort on that transport to care for those children; and

ii.any further information in KCC's possession, custody or control which is relevant to determining whether or not it is safe to provide school transport for fifteen or sixteen disabled children of varying ages with

varying special needs but with only one escort on that transport to care for those children; and

iii. any further specific information which KCC took into account in determining whether or not it is safe for my son, [name redacted], to be transported to and from school with fourteen or fifteen other disabled children of varying ages with varying special needs but with only one escort on that transport to care for those children.

2). I am content for this information to be sent electronically as pdf documents to me at the email address from which this request is sent provided I am able to open, read and print all of those documents at home with my existing technology. If not then I require hard copies of all of this information to be sent by post to my home address. But in the first instance please do try to send pdf documents to my email address.

3). My name is [name redacted]. My address is [address redacted].

4). If your employer retains a specialist department to process information requests then I suggest you forward this request to that department forthwith on receipt.

Best wishes"

6. The Council acknowledged the request on 24 February 2022. To date, a substantive response to the request has not been issued.

Scope of the case

7. The complainant contacted the Commissioner on 31 March 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 the FOIA.

Reasons for decision

9. Section 1(1) of the 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 the 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 7 April 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 the 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 the 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
Team Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF