

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 10 October 2022

Public Authority: London Borough of Barking & Dagenham

Address: Town Hall Square

Barking

IG11 7LU

Decision (including any steps ordered)

1. The complainant requested information about education provision in the borough, elective home education and mental health support. By the date of this notice, the London Borough of Barking and Dagenham ("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:

"Dear FOI Officer,

I write in regards to the Freedom of Information Act 2000.

Request

1. How many pupils aged 5 - 18, do not currently have any educational provision?
 2. How many pupils aged 5 - 18 on the SEND register, do not currently have any educational provision?
 3. How many pupils aged 5 - 18 with an EHCP or statement, do not currently have any educational provision?"
6. On 30 July 2022, the complainant wrote to the Council again and made another request in the following terms:

"Dear FOI Officer,

I am writing under the Freedom of Information Act 2000 requesting that you release the following information.

Request

1. How many parents removed their child from school in your LA to become EHE (Electively Home Educated) as a reason of 'mental health' between 01.09.2021-22.07.2022?
 2. In recent years has your LA seen an increase or decrease in the number of parents removing their child to become EHE with a reason of 'mental health'?
 3. What support does the LA provide to children who are struggling with their mental health? Please send any relevant information/policies/documents in relation to support for children struggling with their mental health."
7. The Council wrote to the complainant on 1 August 2022 to advise that it had aggregated the two requests.
8. To date, a substantive response has not been issued.

Scope of the case

9. The complainant contacted the Commissioner on 15 September 2022 to complain about the Council's failure to respond to their requests.
10. 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

11. 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."

12. 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".
13. On 20 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.
14. Despite this intervention the Council has failed to respond to the complainant.
15. 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

16. 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

17. 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.
18. 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