

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 12 August 2021

Public Authority: Luton Borough Council
Address: Town Hall
Luton
LU1 2BQ

Decision (including any steps ordered)

1. The complainant requested a copy of documents which Luton Borough Council (the Council) provided to maintained schools during the national lockdown in January 2021.
2. The Commissioner's decision is that the Council failed to respond to the request within 20 working days and has therefore breached section 10 of the FOIA.
3. The Commissioner requires the Council to take the following steps to ensure compliance with the legislation.
 - Issue a substantive response, in accordance with its obligations under the FOIA, to the request.
4. The Council 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 the FOIA and may be dealt with as a contempt of court.

Request and response

5. On 27 April 2021, the complainant wrote to the Council and requested information in the following terms:

"I am writing to request the disclosure of :

** "EHCP Risk Assessment – school closure" - a template document that the local authority provided to maintained schools during the most recent national coronavirus lockdown in January 2021.*

** any supplementary advice or guidance given to schools or practitioners which may have accompanied the above document.*

** any information as to the progressive development of this document and associated advice or guidance since March 2020, including previous iterations or versions and, if applicable, the date they were withdrawn."*

6. The complainant followed up on the request for information on several occasions, and confirmed on 15 June 2021 that they had now received an acknowledgement of their request for information from the Council.
7. The Council sent a further email to the complainant on 18 June 2021 to explain that the delay was due to a technical issue which meant that some requests which had been submitted via their online form had not reached them.
8. The Council had failed to provide a substantive response by the date of this notice.

Scope of the case

9. The complainant contacted the Commissioner on 6 July 2021 to complain about the failure, by the Council, to respond to the request.
10. In line with her usual practice, the Commissioner contacted the Council on 26 July 2021 to highlight the outstanding response. She requested that the Council respond to the request within 10 working days. The correspondence was neither acknowledged nor responded to.
11. The scope of this notice and the following analysis is to consider whether the Council has complied with section 10 of the FOIA.

Reasons for decision

12. 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.*

13. Section 10 of the FOIA states that responses to requests made under the Act must be provided "*promptly and in any event not later than the twentieth working day following the date of receipt.*"

14. From the evidence presented to the Commissioner in this case, it is clear that, in failing to issue a response to the request within 20 working days, the Council has breached section 10 of the FOIA.

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: 0203 936 8963

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

Phillip Angell
Group Manager
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Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF