

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 21 May 2013

Public Authority: London Borough of Redbridge
Address: Town Hall
High Road
Ilford
Essex
IG1 1DD

Decision (including any steps ordered)

1. The complainant requested a copy of the London Borough of Redbridge's (the 'Council') Special Educational Needs (SEN) policy and asked whether the Local Safeguarding Children Board (LSCB) has a policy for managing long-term health conditions for children and young people. The Council provided a copy of its SEN policy and advised that it did not hold the requested LSCB policy.
2. The Information Commissioner (the 'Commissioner') has decided that, on the balance of probabilities, the Council has provided all the information it holds in relation to the request. He does not require the Council to take any steps.

Request and response

3. On 2 October 2012 the complainant wrote to the Council and requested information in the following terms:

"I would appreciate it if you could forward a copy of the Redbridge SEN Policy as I was unable to locate this on the website.

Also does the LSCB have a policy for the "management [sic] of long term health conditiond [sic] for children and young people"? Again unable to locate it so a copy (e-mailed or hard copy) would be appreciated."

4. The Council responded in part on 8 October 2012. It provided a document "*relating to the SEN vision in Redbridge*". It stated that it would ask the appropriate officer about information policy documents relating to the LSCB.
5. On 13 November 2012 the Council wrote to the complainant again to inform her that, after a search for the "*management of long term health conditions for children and young people*", the Council was not aware of any such policy being held by the LSCB and, for this reason, the Council did not hold this information.
6. The complainant requested an internal review on 21 November 2012. The Council sent her the outcome of its internal review on 27 November 2012. It said that its records showed she had been provided with a copy of the SEN vision in Redbridge and reconfirmed that it did not hold any information about the requested LSCB policy.

Scope of the case

7. The complainant contacted the Commissioner on 21 January 2013 to complain about the way her request for information had been handled. She highlighted that she did not want the 'vision' but rather contact details, services and assessments and support for parents. She forwarded two examples of SEN policies from other councils in support of her view that the document provided was not an SEN policy but "*an idealistic vision of the future*", whereas the example policies set out the 'how' in more detail.
8. At the outset of the investigation the complainant confirmed that she wished the Commissioner to also investigate her request for the LSCB policy.
9. The Commissioner has investigated whether, on the balance of probabilities, any further information is held by the Council relevant to the complainant's request, than it has already provided.

Reasons for decision

10. Section 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."

11. The task for the Commissioner here is to determine whether, on the balance of probabilities, the Council holds any further information relevant to the request which it has not disclosed to the complainant. Applying the civil test of the balance of probabilities is in line with the approach taken by the Tribunal when it has considered the issue of whether information is held in past cases.
12. The Commissioner set out for the Council that the complainant had sent him two examples of SEN policies from other Councils in support of her view that the document provided is not an SEN policy but *"an idealistic vision of the future."* He asked the Council to detail the searches it had undertaken relevant to this request.
13. In reply, the Council confirmed that the document it had provided, entitled *"The London Borough of Redbridge Special Educational Needs (SEN) Strategy 2008-11"* is its SEN policy. It commented that it is working on updating the policy, but that due to the developing position with new SEN legislation currently in draft form, the work had not yet been completed.
14. The Council explained that it had checked its SEN Service to ensure that there is no other policy document that constitutes an SEN policy that it had not disclosed to the complainant. It had also checked online using the search terms *"Redbridge SEN Policy"*, *"SEN Redbridge"* and *"Special Educational Needs Policy Redbridge"*.
15. The Council confirmed it had checked its internal policies and could not find any other documents that might fit the description of its SEN policy. It also stated that senior staff members within the relevant areas had been consulted and that they had been unable to identify any other relevant information.
16. The Council commented that: *"We find it hard to understand on what grounds we would consider making an SEN Policy and then fail to make it available. We have looked extensively to confirm that there are no other documents that could be construed to be an SEN Policy for Redbridge"*.
17. In relation to the second part of the request the Council said that, given the request was for a statement of the policy of the Redbridge LSCB, that the LSCB does not publish any such policies meant it was quickly and easily able to establish that it (the Council) did not hold the requested information. The Council explained that there is no statutory requirement on either it or the LSCB to have such a policy.

18. On 22 April 2013 the Commissioner wrote to the complainant setting out his preliminary view that, on the balance of probabilities, the Council holds no further information pursuant to the request. He asked the complainant to consider withdrawing her complaint on this basis.
19. That same day, the complainant contacted the Commissioner to confirm that she would not withdraw her complaint. She said that she had spoken to a neighbour who has two SEN children, and had been "*given a copy of the document*" that she wanted, although she acknowledged it was old and that she did not know if it had since been superseded. She stated that the document sets out what can be expected from the local authority when a child has SEN, who will give what, where they are based, contact numbers, assessment timeframes, and other matters.
20. Despite the Commissioner's efforts to secure either a copy of, or further details about this document, which are set out in the '*Other Matters*' section of this notice, the complainant did not submit anything further.
21. The Commissioner has concluded that, on the balance of probabilities, the Council holds no further information relevant to the request other than that it has already provided to the complainant.

Other matters

22. In this case the complainant informed the Commissioner that her neighbour had given her a copy of a document which she considered to be a more appropriate FOIA response. Although the complainant agreed in writing that she would either provide a copy or further details about the contents of this document, such that the Commissioner could investigate this further with the Council, neither was forthcoming.
23. The Commissioner attempted to elicit some further details during the period 22 April 2013 to 13 May 2013. The complainant told him she would ask her neighbour for it again; however, her final email stated: "*Since my neighbour has sons with SEN [sic] and an on-going need for it I only thought it polite to return it once I had read it. My neighbour still has the booklet*".

Right of appeal

24. 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

25. 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.
26. 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

**Jon Manners
Group Manager
Information Commissioner's Office
Wycliffe House
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Wilmslow
Cheshire
SK9 5AF**