

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 21 October 2022

Public Authority: Suffolk County Council
Address: Endeavour House
8 Russell Road
Ipswich
Suffolk
IP2 2BX

Decision (including any steps ordered)

1. The complainant has requested information regarding Education, Health and Care Plans (EHCP) and Special Educational Needs and Disability (SEND) information. This request also included tribunal information, costs and meeting reports.
2. The Commissioner's decision is that Suffolk County Council (the Council) was entitled to aggregate the request under section 12(4) of FOIA and to refuse to comply with the request in accordance of section 12(1) of FOIA.
3. The Commissioner does not require the Council to take any further action.

Request and response

4. On 19 July 2022, the complainant wrote to the Council and requested information regarding Education, Health and Care Plans (EHCP) and Special Educational Needs and Disability (SEND) information. This request also included tribunal information, costs and meeting reports. The full requests can be found in the annex below, highlighted in bold.
5. The Council responded on 15 August 2022. It stated that it does hold the information requested, but refused the request under section 12 of the FOIA. The Council upheld this decision in its internal review.

Reasons for decision

6. Section 1(1) does not oblige a public authority to comply with a request for information if the authority estimates that the cost of complying with the request would exceed the appropriate limit.
7. Section 12 allows a public authority to refuse to comply with a request for information if the authority estimates that the cost of compliance would exceed the 'appropriate limit', as defined by the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 ("the Regulations").
8. In Decision Notice IC-181080-P4X1¹ the Commissioner found that the Public Authority was entitled to rely on section 12 due to the cost of complying with the request.
9. When estimating whether the appropriate limit is likely to be exceeded, it can include the costs of complying with two or more requests if the conditions laid out in regulation 5 of the Fees Regulations can be satisfied. Those conditions require the requests to be:
 - made by one person, or by different persons who appear to the public authority to be acting in concert or in pursuance of a campaign;
 - made for the same or similar information; and
 - received by the public authority within any period of 60 consecutive working days.
10. The Commissioner is satisfied that regulation 5 of the fees regulation is satisfied as all three conditions have been met and complying with the 6 requests would exceed the cost limit.
11. The Council went on to break down each request submitted by the Complainant and explained that a Public Authority can refuse requests for information where the cost of dealing with them would exceed the appropriate cost limit. In this instance the appropriate limit for the Council is set at £450/18 hours of work².

¹ [ic-181080-p4x1.pdf \(ico.org.uk\)](#)

² [costs_of_compliance_exceeds_appropriate_limit.pdf \(ico.org.uk\)](#)

12. We are also satisfied that the Council has met its obligations under Section 16 by advising that if you are able to submit no more than 2 FOI requests a month, it's likely that it may be able to provide you with the information.

Right of appeal

13. 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

14. 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.
15. 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

Catherine Fletcher
Team Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Annex

16. The first request submitted to the Council – Council reference 22027

“Please provide the following information for school year 2021-2022.

**total number of primary pupils permanently excluded;
total number of primary pupils, receiving SEND-support (no EHCP) , permanently excluded;
total number of primary pupils, with an EHCP, permanently excluded;
number of independent reviews conducted for primary school pupils;
number of independent reviews conducted for primary school pupils where a SEND advisor was present;
number of recommendations to reinstate at primary IRP;
number of actual reinstatements of primary school pupils;**

**total number of secondary pupils permanently excluded;
total number of secondary pupils, receiving SEND-support (no EHCP) , permanently excluded;
total number of secondary pupils, with an EHCP, permanently excluded;
number of independent reviews conducted for secondary school pupils;
number of independent reviews conducted for secondary school pupils where a SEND advisor was present;
number of recommendations to reinstate at secondary IRP;
number of actual reinstatements of secondary school pupils;**

**Number of suspension days:
Primary school children;
Primary school children under SEND support (no EHCP);
Primary school children with EHCP;**

**Secondary school children;
Secondary school children under SEND support (no EHCP);
Secondary school children with EHCP.**

total payments or financial adjustments made in connection with sections 181-189 of the statutory guidance "Exclusion from maintained schools, academies and pupil referral units in England, 2017"

<https://assets.publishing.service.gov.uk...>

If any data are not yet available, please give an estimate on when they will be available."

17. The second request also dated 19 July 2022 – Council reference 22028

"Please provide me with the following for reporting year 2021-22 (i.e. July 2021 - June 2022).

**The number of appeals made to SENDIST.
The number of successful appeals.
The number of appeals unopposed by the Council.**

For appeals against refusal to assess or reassess-

**The number of appeals made to SENDIST.
The number of successful appeals.
The number of appeals unopposed by the Council.**

For appeals against refusal to issue an EHCP-

**The number of appeals made to SENDIST.
The number of successful appeals.
The number of appeals unopposed by the Council.**

For appeals against section I of an EHCP-

**The number of appeals made to SENDIST.
The number of successful appeals.
The number of appeals unopposed by the Council.**

For appeals against section B and/or F of an EHCP-

**The number of appeals made to SENDIST.
The number of successful appeals.
The number of appeals unopposed by the Council.**

"successful" appeals should include tribunal outcomes upheld or largely upheld or agreed by consent order."

18. Third request - Council reference 22029

"For school year 2021/2022 or Council reporting year (if more convenient), please provide the following information:

number of Education, Health and Care plans in final state at beginning of year;

number of EHCP annual reviews conducted during year

number of the above attended by a SEND family services officer;

number of EHCP early/emergency reviews conducted during calendar year , i.e. those conducted at specific request prior to the annual due date ;

number of EHCPs which the Council decided to or agreed to amend following AR;

number of occasions where final draft, following amendment, was issued within three months of AR;

number of occasions where final draft, following amendment, was issued within six months of AR;

number of occasions where final draft, following amendment, was issued within nine months of AR;

number of occasions where final draft, following amendment, was issued within 12 months of AR or has not yet been issued."

19. Fourth request – Council reference 22030

"I would like to know how many times the LA has employed legal counsel (directly or through a solicitor acting on the LAs behalf) to defend SEND Tribunal appeals, and at what cost, for each of the following academic years:

2021-2022"

20. Fifth request – Council reference 22032

"Total number of Children and Young people with an EHCP for each key stage 1-5;

Number of Children and Young people with an EHCP on roll in mainstream setting for each key stage 1-5;

Number of Children and Young people with an EHCP on roll in specialist setting (for Learning Disabilities or Physical needs) for each key stage 1-5;

Number of Children and Young people with an EHCP on roll in specialist setting (where primary provision is designated as SEMH) for each key stage 1-5;

Number of Children and Young people with an EHCP who have attended a PRU or Alternative Provision, for each key stage 1-5, since the issue of their EHCP;

Number of Children and Young people with an EHCP who have been solely educated at a PRU or Alternative Provision, for each key stage 1-5, in the current academic year;

Number of Children and Young people with an EHCP who are currently electively educated at home;

Number of Children and Young people with an EHCP who are currently educated at an out of county placement, and the total cost to the Council of this provision;

Number of Children and Young people with an EHCP who are currently awaiting a full time placement ;

Number of Children and Young people with an EHCP who were without suitable education for more than 15 days during the school year 2021-2022, where "suitable education" is defined in Section 19, Education Act (1996) and associated statutory guidance. Please provide a copy of the Council's policy which defines the precise criteria used."

21. Sixth request – Council reference 22033

"A meeting was held Department for Education and Suffolk Parent Carer Forum on 19th July 2022.

Please let me have copy of all documents relevant to this meeting, e.g. agenda, minutes and reports etc."