

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 10 January 2022

Public Authority: Croydon Council
Address: Bernard Weatherill House
7th Floor Zone C
8 Mint walk
Croydon
CR0 1E

Decision (including any steps ordered)

1. The complainant requested information on 3 August 2021 relating to unaccompanied asylum seeking children. The Council has not responded to this request.
2. The Commissioner considers that the Council has breached section 10(1) FOIA as it has failed to respond within the statutory time for compliance.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
 - Provide a response to the request in compliance with FOIA.
4. The public authority 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 Act and may be dealt with as a contempt of court.

Request and response

5. On 3 August 2021 the complainant requested information of the following description:

“We write to request a copy of the following:

- a) Any and all of the internal policy/guidance (including unwritten) on Schedule 3, NIAA 2002 and/or human rights assessments;
- b) Any and all documents addressing the matter of human rights assessments for former relevant children aged 21 or over;
- c) Any and all of the internal policy and guidance produced by Croydon Council that concern former relevant children with no immigration status and/or without secure immigration status;
- d) Any and all of the internal policies/guidance (including unwritten) on the Home Office's policy 'Funding to Local Authorities Financial Year 2021/22 Home Office Funding: Unaccompanied Asylum-Seeking Children' and previous versions of this policy for the financial years 2018/2019 and 2020/21, or in the event that you decide to withhold documentation, confirmation as to whether such reports exists on this point and the full reasons for your refusal;
- e) Copies of minutes of meetings held since December 2019 between Croydon Council and officials from the Home Office, Department of Education and Ministry of Housing, Communities and Local Government in respect of the acute financial pressures Croydon Council is experiencing, in respect of the number of unaccompanied asylum-seeking children ('UASC') in its care and the former UASC care leavers aged between 18-25 years as referred to in the Croydon Council Cabinet Report dated 7 June 2021 on 'Addressing the costs of care and support for unaccompanied asylum seeking children and young people in Croydon';
- f) The relevant documentation evidencing the calculations and financial modelling of the projected budget gaps to be incurred by Croydon Council in the financial years 2020/21, 2021/22, 2022/23 and 2023/24 in respect of funding the care and support of UASCs and former UASC care leavers as recorded in the Croydon Council Cabinet Report dated 7 June 2021 on 'Addressing the costs of care and support for unaccompanied asylum seeking children and young people in Croydon';
- g) A copy of the accommodation strategy referred to in paragraph 6.5 of the Croydon Council Cabinet Report dated 7 June 2021 on 'Addressing the costs of care and support for unaccompanied asylum seeking children and young people in Croydon or in the event that you decide to withhold documentation, confirmation as to whether such reports exists on this point and the full reasons for your refusal;
- h) Copies of any reports prepared by Croydon Council's Monitoring Officer under section 5 of the Local Government and Housing Act 1989 from 2019 to present day in respect of the Council's need to operate outside its statutory duties to UASCs in their care and former UASC care

leavers aged between 18-25 years of age or in the event that you decide to withhold documentation, confirmation as to whether such reports exists on this point and the full reasons for your refusal;

i) Copies of any agreements reached between Croydon Council and Home Office officials or any other central government officials reached between 2018 to present day in respect of funding the costs of support of former UASC care leavers aged between 18-25 years for whom Croydon Council is responsible, or in the event that you decide to withhold documentation, confirmation as to whether such reports exists on this point and the full reasons for your refusal;

j) Copies of any unwritten/written policies/guidance/other documents produced in 2021 concerning the review of support provided to all former relevant children (otherwise known as care leavers) between the ages of 18 to 25 years who were former unaccompanied asylum seeking children or in the event that you decide to withhold documentation, confirmation as to whether such reports exists on this point and the full reasons for your refusal."

6. The Council failed to respond to the complainant's requests despite a number of chase up emails sent by the complainant on 6 September, 5 and 21 October 2021.
7. Due to the lack of response, the complainant submitted a complaint to the Information Commissioner's Office on 5 November 2021.
8. The Commissioner wrote to the Council on 13 November and 6 December 2021 reminding it of its obligations under FOIA to respond to this request.
9. The Council failed to provide a response to the complainant or reply to the Commissioner.

Scope of the case

10. The complainant contacted the Commissioner as the Council failed to respond to his request.
11. The Commissioner has considered whether the Council complied with its obligations under section 10(1) FOIA in its handling of this request.

Reasons for decision

12. Section 10(1) provides that:

"Subject to subsections (2) and (3), a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt."

13. Section 1(1) provides 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."*

14. The original request was made on 3 August 2021 and a response is yet to be provided by the Council. The Commissioner therefore finds that the Council breached section 10(1) in failing to provide a response within 20 working days.

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: 0300 1234504

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.....

Gemma Garvey
Senior Case Officer

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF