

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 4 July 2024

Public Authority: Lancashire County Council

Address: PO Box 78
County Hall
Fishergate
Preston
Lancashire
PR1 8XJ

Decision

1. The complainant requested information from Lancashire County Council ("the Council"). The Commissioner disclosed some information, however it refused to disclose the remainder. The Commissioner's decision is that the Council was entitled to refuse to disclose the remaining requested information in accordance with section 12(1) (cost limit) of the FOIA.
2. The Commissioner also finds that the Council provided reasonable advice and assistance and therefore met its obligations under section 16(1) of the FOIA.
3. The Commissioner requires no steps to be taken.

Request and response

4. On 9 February 2024 the complainant requested the following:-

"I am contacting you to make a formal request under the Freedom of Information Act 2000. This relates specifically to Education, Health and Care (EHC) plans and the associated EHC needs assessments

(EHCNAs) Can you please confirm for the last 12 month period (01-FEB-23 to 31-JAN-24 inclusive):

1. The total number of requests Lancashire County Council received from parents, young persons or professionals for an ECHNA, where LCC agreed to go ahead with an assessment.
2. As per point 1, where an EHCNA was agreed, on how many of these occasions (including dates) were LCC unable to commission an Educational Psychologist (EP) within the required 6 weeks' time period (as per SEN Reg 8(1) and paragraph 9.52 of the SEN and Disability Code of Practice).
3. As per point 2, where an EHCNA was agreed, on how many of these occasions (including dates) did the parent, young persons or professionals who requested the EHCNA, provide LCC with information and/or a report from a privately commissioned EP in lieu of the absence of information and/or a report from a LCC commissioned EP.
4. On how many of the occasions outlined in point 3 (including dates) did LCC accept the information and/or a report from a privately commissioned EP as part of the EHCNA.
5. On how many of the occasions outlined in point 3 (including dates) did LCC reject the information and/or a report from a privately commissioned EP as part of the EHCNA, including LCCs reason for rejection for each request."
5. The Council responded to the request on 15 March 2024. It provided information in response to question 1, however it refused to disclose the remaining requested information, citing section 12(1) of FOIA.
6. The complainant sought an internal review of the Council's handling of the request on 19 March 2024. A response to this was provided on 17 April 2024. The reviewer upheld the original decision.

Reasons for decision

Section 12 – cost of compliance exceeds appropriate limit

7. This decision notice concerns section 12 of FOIA. Details of this section of FOIA can be found in the Commissioner's [decision notice support materials](#)

8. Based on advice received from the Council's Inclusion Service, the Council states that it is confident that the work required to provide responses to questions 2-5 would by far exceed the appropriate limit set out in Section 12(1) of the Freedom of Information Act 2000 and Regulation 3(3) of The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004.
9. After considering the questions and the way the information would be recorded in each file, the Inclusion Service advised that extracting accurate and reliable information for each question would require roughly eight minutes of officer time for each individual Liquid Logic record.
10. Therefore, a reasonable estimate for the officer hours required to respond to this request has been calculated by the Council as follows: $(2479 \times 8) \div 60 = 330.5$ hours. The Council has considered whether this figure could be reduced by removing duplicate cases where children have multiple EHCNA requests. However, there are comparatively not many duplicate records, and it estimates that considering these duplicates would only decrease the work required by less than 10 hours.
11. Given the number of records that Council staff would have to manually review, the Commissioner accepts that the above estimate is reasonable and that therefore the Council was correct to apply section 12(1) of FOIA to the request.

Section 16 of FOIA – advice and assistance

12. Regarding the Council's obligation to provide advice and assistance under Section 16 of FOIA, the Council does not believe it can realistically offer further advice and assistance to the complainant. It has informed the Commissioner that, due to the way the information is recorded, it is unlikely that reducing the timeframe of the request or prioritising certain questions would have enough of an impact on the hours required to make providing useful information to the complainant possible.
13. The Council is confident that its Information Governance Team has at every opportunity tried to be as helpful as possible to the complainant and provided them with a suitable level of advice and assistance overall, fulfilling the Council's obligations under Section 16. In the Council's response to the complainant's request it stated as follows:-

"Due to the nature of the information you are seeking, and the way in which it is recorded, it is difficult to suggest a way in which your request can be refined to bring it within the appropriate limit. However, if you wish to resubmit a revised request we shall, of course, consider it and

ascertain whether it is possible to collate any relevant information within the limit.”

14. The Commissioner is satisfied that the estimate of over 300 hours of work required is both sensible and realistic, that significant effort has been made to explore alternative and quicker methods to extract this information, and that an appropriate level of advice and assistance has been offered to the complainant.
15. Therefore the Commissioner considers that the Council has provided adequate advice and assistance and has therefore complied with section 16(1) of 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: 0300 1234504

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

Deirdre Collins
Senior Case Officer
Information Commissioner's Office
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Wilmslow
Cheshire
SK9 5AF