

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 21 August 2018

Public Authority: Medway Council

Address: Gun Wharf
Dock Road
Chatham
ME4 4TR

Decision (including any steps ordered)

1. The complainant has requested information about schools for the academic year 2015-2016. Medway Council ("the Council") has acknowledged that it has not provided a substantive response to part 4) of the request under the terms of the FOIA.
2. The Commissioner's decision is that the Council has failed to provide a substantive response to part 4) of the request, and has therefore breached section 10(1) of the FOIA.
3. The Commissioner requires the Council to take the following steps to ensure compliance with the legislation:
 - Issue a substantive response, under the FOIA, to part 4) of the request (which the Council has given the reference 'MFOI001173').
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 Act and may be dealt with as a contempt of court.

Request and response

5. On 25 April 2017, the complainant wrote to the Council and requested information in the following terms:

I am requesting the following information under FOI for the academic year 2015-16.

For each primary, secondary and special school and academy separately. Please break numbers down further by Year Groups.

The request is for:

- 1) The number of permanent exclusions for each school*
- 2) The number of managed moves out*
- 3) The number of managed moves in*
- 4) The number of children leaving to become home educated.*

6. The Council responded on 26 June 2017. In respect of part 4, it disclosed information. This information was:
- The total number of children withdrawn from primary and secondary education in 2015-2016 (377), and the breakdown of this figure by school.
7. The complainant subsequently asked the Council to undertake an internal review. This was on the basis that no 'breakdown' (by year group for each school) had been provided.
8. The Council provided an internal review on 21 November 2017. It appears to change the total number for 2015-2016 (to 231). It did not provide a breakdown by year group for each school.

Scope of the case

9. The complainant submitted this complaint in conjunction with FS50722024 (for which the Commissioner has issued a Decision notice).
10. Part 4) of the request in this case is connected to the request considered in FS50722024, and the Commissioner understands that the Council has sought to address both at the same time.
11. In Decision notice FS50722024 the Commissioner has noted that the Council has acknowledged that it has not provided a substantive response under the terms of the FOIA. The specific reasons for this were a) that the Council was unable to verify which, if any, of the disclosed total figures were correct, and b) that the Council had not fully

considered that part of the request which sought a breakdown by year group for each school.

12. In the circumstances of this case the Commissioner must therefore conclude that the Council has not provided a complete substantive response to part 4) of the request under the terms of the FOIA. The Commissioner must therefore make a determination on this basis.

Reasons for decision

13. 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.*

14. 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.*"

15. From the evidence presented to the Commissioner in this case, it is understood that the Council has failed to issue a substantive response to part 4) of the request that complies with the FOIA.

16. On this basis the Commissioner must find that the Council has breached section 10 of the FOIA.

Right of appeal

17. 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@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

18. 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.
19. 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

Ben Tomes
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