

DATA PROTECTION ACT 2018 AND UK GENERAL DATA PROTECTION REGULATION

REPRIMAND

TO: London Borough of Lewisham

OF: Laurence House, Rushey Green, Catford, London, SE6 4RU.

The Information Commissioner (the Commissioner) issues a reprimand to London Borough of Lewisham (the Council) in accordance with Article 58(2)(b) of the UK General Data Protection Regulation (UK GDPR) in respect of certain infringements of the UK GDPR.

The reprimand

The Commissioner has decided to issue a reprimand to the Council in respect of the following infringements of the UK GDPR:

- Article 12(3) which states: "The controller shall provide information on action taken on a request under Articles 15 to 22 to the data subject without undue delay and in any event within one month of receipt of the request. That period may be extended by two further months where necessary, taking into account the complexity and number of the requests. The controller shall inform the data subject of any such extension within one month of receipt of the request, together with the reasons for the delay. Where the data subject makes the request by electronic form means, the information shall be provided by electronic means where possible, unless otherwise requested by the data subject."
- Article 15(1) which states: "The data subject shall have the right to obtain from the controller confirmation as to whether or not personal data concerning him or her are being processed, and, where that is the case, access to the personal data..."

The reasons for the Commissioner's findings are set out below.

Based on the findings of the investigation, 35% of subject access requests (SARs) the Council received were not responded to within the statutory deadlines of one and three months, during the period of 3 January 2022 to 3 January 2023. This has had a significant impact on the data subjects

affected and we expect the Council to take steps to improve its compliance in this area.

Mitigating factors

In the course of our investigation we have noted that the Council has referred to a backlog in relation to children and young people SARs in particular.

During the Covid-19 pandemic, the Council explained that remote working arrangements caused delays in responding to SARs which contained original, paper documents prevalent in children and young people SARs. Access to the Council's storage location, which held physical documents, was also unavailable. This contributed to the development of the backlog.

Remedial steps taken by the Council

The Commissioner has also considered and welcomes the remedial steps taken by the Council in the light of this incident. In particular, the Council has taken steps towards increasing staff resources. The management of its corporate SAR work has also moved under the control of [REDACTED]

The Council has produced an improvement plan, which relates to both its backlogs in SARs and Freedom of Information (FOI) requests. In the improvement plan, the Council outlines how it aims to address both its SAR and FOI request backlogs by 16 September 2023.

The Council has also approved a scan on demand project. This is anticipated to have a positive impact on its ability to respond to children and young people SARs in a more timely manner.

Decision to issue a reprimand

Taking into account all the circumstances of this case, including the mitigating factors and remedial steps, the Commissioner has decided to issue a reprimand to the Council in relation to the infringements of articles of the UK GDPR set out above.

Further Action Recommended

The Commissioner recommends that the Council should take certain steps to ensure its compliance with UK GDPR. With particular reference to Articles 12(3) and 15(1) of the UK GDPR, the following steps are recommended:

1. The Council should take steps to ensure that SARs are responded to within statutory deadlines.
2. The Council should ensure it has adequate staff resources in place to process and respond to SARs. Whilst the Council has taken steps towards increasing staff resources, it should continue to review and improve upon this aspect.
3. The Council should ensure it implements effective measures to address its backlog of children and young people SARs in particular. The ICO notes the Council's efforts to address its backlogs in both SARs and FOI requests. However, the backlog of children and young people SARs remains a key issue.

The Council should provide a progress update on the above recommendations within six months of the date of this reprimand, i.e. by 16 February 2024.