

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 19 July 2019

Public Authority: London Borough of Sutton
Address: St Nicholas Way
Sutton
SM1 1EA

Decision (including any steps ordered)

1. The complainant requested information related to the provision of specialist education services for deaf children and young people. The request formed part of a nationwide series of requests submitted to public authorities for information of this nature.
2. The Commissioner's decision is that the London Borough of Sutton ("the London Borough") failed to respond to the request within 20 working days and has therefore breached section 10 of the FOIA.
3. The Commissioner requires the London Borough to take the following steps to ensure compliance with the legislation.
 - Issue a substantive response, under the FOIA, to the request.
4. The London Borough 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 FOIA and may be dealt with as a contempt of court.

Request and response

5. On 28 February 2019, the complainant wrote to the London Borough and made a request for information. Due to its length a copy of the wording of the request is provided in the annex to this decision notice.
6. The complainant contacted the London Borough on 29 March 2019 to chase a response to the request. The London Borough apologised for the delay on the same day and advised they would provide a response as soon as possible. To date, no response has been provided to the request.

Scope of the case

7. The complainant contacted the Commissioner on 12 April 2019 to complain about the failure, by the London Borough, to respond to the request.
8. In line with her usual practice, the Commissioner contacted the London Borough on 17 April 2019 to highlight the outstanding response. She requested that the London Borough respond to the request within 10 working days. The London Borough responded on 18 April 2019 and advised that the Commissioner's correspondence had been sent to the relevant service area in order to provide a response.
9. The complainant contacted the Commissioner on 3 July 2019 to request a decision notice considering the London Borough's compliance with the FOIA.
10. The scope of this notice and the following analysis is to consider whether the London Borough has complied with section 10 of the FOIA.

Reasons for decision

11. 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.*

12. Section 8(1) of the FOIA states:

In this Act any reference to a "request for information" is a reference to such a request which –

- (a) is in writing,*
- (b) states the name of the applicant and an address for correspondence, and*
- (c) describes the information requested.*

13. The Commissioner considers that the request in question fulfilled these criteria and therefore constituted a valid request for recorded information under the FOIA.

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 clear that, in failing to issue a response to the request within 20 working days, the London Borough has breached section 10 of the 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

Jonathan Slee
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Annex

Budget for 2019/20: Education services for deaf/hearing impaired children and young people

SUTTON

This is a request for information under the Freedom of Information Act. Please confirm that you have received this request...

...We are interested in decisions relating to spending on deaf children and young people's education. This is part of a nationwide request, using a standardised format to ensure consistency.

The information requested may relate to services which you commission from private companies or have delegated funding to schools to provide. As you remain legally accountable for these services we still expect you to collate the information, rather than referring us on.

Please answer ALL the questions. If the information cannot be provided in whole or in part, please justify all omissions by reference to the specific exemptions of the Act.

I look forward to your response promptly but no later than 20 working days. Please email to [redacted].

- 1. Please state the name, job title and contact details of the person completing this form*
- 2. Do you plan on reducing the overall budget allocated for*
 - a) specialist education support services for all children with special educational needs in 2019/20?*

Yes / No

- b) specialist education support services specifically for deaf/hearing impaired children in 2019/20?*

Yes / No

- c) Please give details*

3. Do you plan on reducing the overall number of specialist education staff working with deaf/hearing impaired children in 2019/20?

Yes / No

4. Please complete the table below giving details of the budgeted spend for specialist education services for deaf/hearing impaired children in 2018/19 and 2019/20.

We have already included the information your authority provided last year and have given a column for you to state if budgeted spend is expected to vary from actual spend. Please use figures for budgeted spend (NOT actual spend) for 2019/20 figures.

2018/19 budgeted spend

Is your actual spend for 2018/19 likely to vary from this figure? If yes, please explain

2019/20 budgeted spend

If there is a planned reduction since 2018/19, please explain

5. Do the figures above include budgeted spend on children without a hearing impairment? (e.g. vision impaired or MSI children)

a. Yes / No

b. If yes, please provide details

6. Please complete the table below giving details of budgeted staffing levels in the specialist education service for deaf/hearing impaired children in 2018/19 and 2019/20.

If any of the posts include a combination of management and service delivery roles or if staff work flexibly across roles, please ensure the approximate time spent on each is accurately divided between rows a), b) and/or c) and expressed as a full time equivalent (fte)

We have already included the information your authority provided last year and have given a column for you to update if this changed during the year.

Please note you may need to ask schools for this information.

2018/19 number of fte posts

How many of these posts were vacant 2018/19?

How many of these posts were frozen in 2018/19?

2019/20 number of fte posts

How many of these posts will be vacant in 2019/20?

How many of these posts will be frozen in 2019/20?

- a) *Team management (e.g. team leader, Head of Service etc.)*
- b) *Specialist Teachers of the Deaf involved in direct peripatetic service delivery*
- c) *Specialist Teachers of the Deaf involved in any specialist or resource provision (units) in mainstream schools centrally funded by the local authority*
- d) *Communication support workers, specialist teaching assistant, any other specialist staff or those working in a similar role to a CSW or a T*
- e) *Other (please give details)*

7. *How many resource provisions, bases or specialist units for deaf/hearing impaired children were there in your local authority in September 2018?*

8. *How many resource provisions, bases or specialist units for deaf/hearing impaired children will there be in your local authority in September 2019?*

9. *Are any changes planned to resource provisions, bases or specialist units for deaf/hearing impaired children in your local authority in 2019/20?*

10. *Are there any plans to review the specialist education service for deaf/hearing impaired children in 2019/20?*

i. *Yes/No*

ii. *If yes, please provide details, brief outline, timeline and any consultations*

11. *Please use the box below to provide any further information about education services for deaf children in your area.*