

FREEDOM OF INFORMATION ACT 2000

Your request for information has now been considered and the Council's response to your questions is shown below.

You asked:

In this request, references to 'unaccompanied children' should be understood as referring to children who either arrived in the United Kingdom separated from their parents or who have subsequently become separated from their parents (whether by reason of being taken into the care of the local authority or otherwise), and who are not currently being cared for by an adult with a legal or customary responsibility for doing so. This definition is based on that used by the Joint Committee on Human Rights (JCHR) in its recent report on the human rights of unaccompanied migrant children.

On behalf of The Children's Society we are seeking to ascertain the impact upon unaccompanied children of the withdrawal of legal aid in the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO) in non-asylum immigration cases. We have been advised by the Lord Chancellor's Department that, where necessary, local authorities can fund or provide independent legal advice, assistance and representation in relation to such cases to children to whom it is providing services under the Children Act 1989. We are concerned that local authorities may not be aware of the Government's advice or may take a different view about the ambit of their powers, or may simply not have the funds to commission such advice, assistance and representation. Accordingly we are sending FOIA requests to all local authorities in England and Wales to establish whether local authorities are stepping in to fill the gap and the extent nationally of unmet need for such legal advice and representation.

- 1. How many unaccompanied children who are not British citizens are you currently providing Children Act services to?**
- 2. How many of those children have accessed immigration advice from an immigration solicitor or registered immigration adviser (i) with your assistance (ii) independently while in receipt of Children Act services from you.**
- 3. How many of those children have immigration cases (applications or appeals) that are currently proceeding?**
- 4. In how many cases is the child not in receipt of legal aid for his immigration claim?**
- 5. In how many cases is the child receiving legal aid for part of the claim (i.e. legal aid continues to be available for asylum cases and cases**

raising issues under Article 3 ECHR),but not for the other parts of the case, such as Article 8?

6. How many of these children have made immigration applications or appealed decisions without representation by an immigration solicitor or registered immigration advisor while doing so?

7. How many of these children have you assessed as needing legal services for immigration matters to be funded under the Children Act?

8. In how many cases have you funded initial immigration advice for the child to establish whether it is in their interests to make an application concerning their immigration status?

The information requested is not readily available and will involve many hours of work to identify the relevant cases. Across fieldwork we have between 1500 and 2000 open cases, many may involve children from abroad and could involve separated children. All open cases would need to be considered in order to identify the cohort; we would then need to drill down into any cases identified to gather the information requested.

Section 12 of the Act makes provision for public authorities to refuse requests for information where the cost of dealing with them would exceed the appropriate limit, which for local government is set at £450. This represents the estimated cost of one person spending more than 18 hours in determining whether the department holds the information, locating, retrieving and extracting the information.

This is therefore a Refusal Notice under section 17.1 of the Freedom of Information Act, because under the provisions of section 12.1 of the Act, the Council estimates that to comply with your request in its current form will exceed the appropriate limit.

9. In how many cases have you funded legal advice or representation for the child to make an immigration application or to appeal a decision relating to their immigration status? Please include as a separate figure cases that are part funded by legal aid but where you have funded the aspect of the case which is not covered by legal aid (e.g., where a child has claimed asylum and is receiving legal aid because of their asylum claim, but is also relying on Article 8, ECHR, in respect of which they may not be eligible for legal aid).

10. What criteria do you apply in deciding whether a child has a need for immigration legal services?

11. Have you developed an internal policy setting out the criteria that you apply? If so, please disclose any written policy, or any guidance or advice to decision makers as to those criteria.

12. Have you received advice or guidance from any other source as to the criteria you should apply that can be disclosed? If so, please disclose. If it cannot be disclosed please explain why not.

13. How are those legal services to be provided? For example, do you instruct independent law firms to advise and represent such children or do you use some other method and, if so, what?

14. Have you received any additional central government funding to shoulder this additional burden?

We are very grateful for your time and co-operation in responding to this request.

Legal services may be required to advise within the remit of a Legal planning meeting on the issue of immigration and would always suggest the Local Authority consider supporting the child to obtain independent legal advice. There have been cases where the Authority has paid a fixed fee for initial advice but to establish how many cases there have been would require the manual trawl of all Social Care cases with involvement from legal services. As stated above, this would exceed the appropriate limit under the Act.

There is no policy which sets criteria for which cases would qualify; this would be on a case by case basis. Therefore, the Council does not hold this information and this letter acts as a refusal notice under section 17.1 of the Freedom of Information Act 2000 because, in accordance with section 1.1 of the Act, this information is not held by Leicester City Council.

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Not all the information that is supplied which is covered by copyright will be the Council's copyright, for example it may be the copyright of a government department or another Council. You should seek either the Council's consent or their consent as appropriate. The Council is willing to advise you of any such potential issues on request. In order to make a request to re-use the information please contact the Information Governance Manager using the details below.

If you are dissatisfied with the handling of your request please write to:

Information Governance Manager

Information and Support

Leicester City Council

FREEPOST (LE985/33)

New Walk Centre

LEICESTER LE1 6ZG

e-mail: info-requests@leicester.gov.uk

Your request for internal review should be submitted to the above address within 40 (forty) working days of receipt by you of this response. Any such request received after this time will only be considered at the Council's absolute discretion.

You can also complain to the Information Commissioner at:

Information Commissioner's Office

Wycliffe House

Water Lane

Wilmslow SK9 5AF

Telephone: 01625 545 700

www.informationcommissioner.gov.uk

Please be aware that the Information Commissioner does not normally consider appeals or complaints until the internal appeals and complaints processes of the public authority which is answering the request have been exhausted. You are therefore advised to complain or appeal to the Information Governance Manager before contacting the Commissioner.