

Ms Patricia Anderson

Our Ref: FOIreview/2019/670505  
Direct Line: 01620 827494

Alex McCrorie  
DEPUTE CHIEF EXECUTIVE  
RESOURCES AND  
PEOPLE SERVICES

9 December 2019

John Muir House  
Haddington  
East Lothian  
EH41 3HA  
Tel 01620 827633

Dear Ms Anderson

**FREEDOM OF INFORMATION (SCOTLAND) ACT 2002  
ENVIRONMENTAL INFORMATION REGULATIONS 2004**

I am writing in response to your request for an internal review of your information request of 4 November 2019. I have been appointed to carry out the review of your Freedom of Information request as I was not involved with the original decision.

Your original request in July (2019/636222) was as follows:

*Under FOISA please provide details of*

*1) The total number of requests received to date for the Council to provide discretionary funding for a further year of early learning and childcare for children whose fifth birthdays will fall between the day after the school start date in August 2019 and 31st Dec 2019.*

*2) A breakdown of the total number in 1. above by requests for  
a) continued funding in private/voluntary settings and  
b) continued funding in council run settings.*

*3) In relation to question 2, please provide the number of places the Council has agreed to provide continued funding for in  
a) private/voluntary settings and  
b) council run settings.*

*4. How many of the children applying have a December birthday?*

*5a. How many appeals (challenges if there is no official appeals process) did the Council receive against the Council's decision not to grant funding?*

*5b. How many of these appeals/challenges resulted in the initial decision being overturned?*

6. How many official complaints has the Council received regarding discretionary deferral funding decisions between Nov 2018 and today?

7a. How many applications did the Council receive for children to be permitted early entry to primary school to start in Aug 2019 instead of Aug 2020 (for children who will turn five on or after 1st March 2020)?

7b. How many of these early entry applications were approved?

8. Is the Council's discretionary deferral funding policy currently under review or are there any plans to update it in the near future?

Your subsequent request in November (2019/670505) was as follows:

I have been advised by a third party that the information previously in a previous FoI request is no longer up-to-date: [https://www.whatdotheyknow.com/request/july\\_2019\\_discretionary\\_deferral\\_11#incoming-1412892](https://www.whatdotheyknow.com/request/july_2019_discretionary_deferral_11#incoming-1412892). I would therefore be grateful if the Council could provide an updated response to the questions below (please note the addition of question 2c and 3c):

1) The total number of requests received to date for the Council to provide discretionary funding for a further year of early learning and childcare for children whose fifth birthdays fall between 15th August 2019 (the day after the school start date in ELC in August 2019) and 31st Dec 2019.

2) A breakdown of the total number in 1. above by requests for  
a) continued funding in private/voluntary/independent settings.  
b) continued funding in council run settings.  
c) continued funding split between a council setting and private/voluntary or independent setting.

3) In relation to question 2, please provide the number of places the Council has agreed to provide continued funding for in  
a) private/voluntary/independent settings.  
b) council run settings.  
c) split placements between a council setting and private/voluntary or independent setting.

4. How many of the children applying have a December birthday?

5a. How many appeals (challenges if there is no official appeals process) did the Council receive against the Council's decision not to grant funding?

*5b. How many of these appeals/challenges resulted in the initial decision being overturned?*

*6. How many official complaints has the Council received regarding discretionary deferral funding decisions between 1 Nov 2018 and 1 Nov 2019?*

After reviewing the information held on our systems and reviewing the responses provided by the officer who responded, the response to the original request in July (2019/636222) was correct at the time of responding and remains as such.

In respect of 2019/670505 I can confirm that:

- The information provided was incorrect at the time of responding as the numbers recorded in your response were not those held on our systems. One case was overlooked at this time therefore there had been no reduction in the numbers provided in response to your request in July. For clarity, the answers to the three questions are and remain as follows:
- Q5(a) - 7
- Q5(b) - 3
- Q6 - 3

Only one response was provided, to 2019/636222, and this was correct at that time. Only one response was provided to 2019/670505 and this response was incorrect at the time. Having now reviewed the matter further on receipt of your request for a review I have identified that the response to request 2019/670505 in November was incorrect and I apologise for this error.

With regard to your query on the number of applications (Q1) having gone up between 8/8/19 and today 13/11/19, the number advised in August was 19 and remained at 19 in our response in November.

If you are still not satisfied with our decision following the review process, then you may ask the Office of the Scottish Information Commissioner (OSIC) to investigate the matter. You must appeal to the Commissioner within six months of receiving this notice. You may submit your appeal online via OSIC's website, a link to the online appeal service is provided for your convenience:  
<http://www.itspublicknowledge.info/YourRights/Unhappywiththeresponse/AppealingtoCommissioner.aspx>

Alternatively, you may contact OSIC at:

Scottish Information Commissioner  
Kinburn Castle  
Doubledykes Road  
St Andrews  
Fife  
KY16 9DS

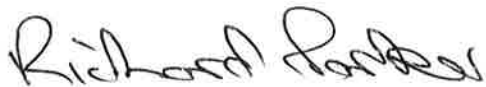
Telephone: 01334 464610

Fax: 01334 464611

E-mail: [enquiries@itspublicknowledge.info](mailto:enquiries@itspublicknowledge.info)

If you remain dissatisfied following the Commissioner's decision, you may be able to appeal to the Court of Session. You should, however, obtain legal advice before deciding on this course of action. This is because an appeal may only be made on a point of law, not because you disagree with the Commissioner's view of the case.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Richard Parker', written in a cursive style.

Richard Parker  
Education Service Manager