

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 3 February 2023

Public Authority: Causeway Coast and Glens Borough Council

Address: Civic Headquarters
Cloonavin
66 Portstewart Road
Coleraine
BT52 1EY

Decision (including any steps ordered)

1. The complainant has requested information relating to the number of bonfires and money spent on organising the events and making repairs after.
2. The Commissioner's decision is that, on the balance of probabilities, Causeway Coast and Glens Borough Council (the Council) does not hold the requested information.

Request and response

3. On 26 July 2022, the complainant wrote to the Council and requested information in the following terms:
 - "1. How many 11th Night bonfires took place in your Council area?
 2. How much money, in total, was granted by the Council to persons or organisations responsible for the events?
 3. What was the name of the persons or organisations that the money, if any, was paid to?
 4. How much Council money, if any, was paid to prepare the site, or protect property beforehand?
 5. How much Council money, if any, was paid to effect repairs after the event?"

4. The Council requested clarification for part 1 and 2 of the request, which was provided in the following terms:

"Q1 states: "How many 11th Night bonfires took place in your Council area?" – can you please confirm which month and year this refer to.

12th July 2022

Q2 states: "2. How much money, in total, was granted by the Council to persons or organisations responsible for the events?". This could be interpreted in different ways for example does it relate to funding of bonfire materials or relate to funding for community festivals held on the 11th or around the 11th at which there may have been a bonfire' etc.

funding of bonfire materials"

5. The Councils final position was 15 bonfires had taken place, information for parts 2 and 3 was not held and refused under Regulation 12(4)(a) and questions 4 and 5 would exceed the cost limit and was refused under 12(4)(b).

Scope of the case

6. The complainant contacted the Commissioner on 27 September 2022 to complain about the Council's application of Regulation 12(4)(b), in response to questions 4 and 5.
7. During the Commissioner's investigation, the Council revised its position and advised both the Commissioner and the complainant that the information requested for parts 4 and 5 was not held.
8. The Commissioner considers whether the Council was entitled to rely on Regulation 12(4)(a) EIR for questions 4 and 5.

Reasons for decision

Regulation 12(4)(a) – information not held

9. Regulation 12(4)(a) of the EIR states that a public authority may refuse to disclose information "to the extent that it does not hold that information when an applicant's request is received"
10. In cases where there is some dispute about the amount of information located by a public authority and the amount of information that a

complainant believes may be held, the Commissioner, makes a decision based on the civil standard of the balance of probabilities. In other words, to determine such complaints, the Commissioner must decide whether, on the balance of probabilities, a public authority holds any further information which falls within the scope of the request (or was held at the time of the request).

11. The Council advised the Commissioner that in relation to Question 4, the Estates team searched its "Maintenance Management System" where all maintenance issues are logged. The Council confirmed there is no record of any requests to protect or prepare the sites prior to bonfires on the 11th night. It went further to confirm that "Estates has never routinely carried out protective works."
12. In relation to Question 5 the Estates team also carried out searches on the "Maintenance Management System". The Council confirmed that the search produced no records related to repair work conducted on the sites related to the bonfires. The Council advised that any costs held by the Council related to bonfires is for the removal of debris left after the fires.
13. When questioned about search terms used, the Council explained that information can only be accessed by administrator staff. The administrator staff used filters such as 'work type', 'location', 'requested by' and 'job description' to find the requested information. The Council advised administrator staff were able to quickly confirm that no entries exists for bonfires in respect of protection and/or repair.
14. The Council confirmed that records are only held electronically and therefore the only searches conducted were electronic. The Council also confirmed there is no business purpose for the requested information.
15. The complainant explained that they believed this matter is highly contentious and that the public should have the right to know all costs imposed on the "public purse by this controversial tradition".
16. The complainant also advised they had made similar requests to all Councils in Northern Ireland and most Councils have replied in full. The complainant concluded that due to the public interest in the requested information, the Council should be capturing and recording the information.

The Commissioner's decision

17. The Commissioner is satisfied that, on the balance of probabilities, the requested information is not held by the Council. There is no clear evidence which shows the Council does hold the information and the Commissioner is satisfied that adequate searches have taken place.

18. As no information within the scope of the request is held, the Commissioner can only find that the public interest in maintaining the exemption at 12(4)(a) of the EIR outweighs any public interest in disclosure, simply because there is no information to disclose.

Right of appeal

19. 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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

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

20. 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.
21. 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

Catherine Fletcher
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Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF