Freedom of Information Act 2000 (Section 50)
Environmental Information Regulations 2004

Decision Notice

Date: 13 August 2009

Public Authority: Weymouth & Portland Borough Council
Address: Council Offices, North Quay
Weymouth
Dorset
DT4 8TA

Summary

The complainant has, over several years, made a series of requests relating to the Council's interpretation of Section 177 of the Licensing Act 2003. The Council deemed the requests that are the subject of this decision notice to be vexatious and refused to comply with section 1(1) of the Freedom of Information Act ('the Act'). The Commissioner determined that the requests, in part, sought information that was likely to be environmental information. Therefore he has considered the requests under both the Act and the Environmental Information Regulations 2004 ('the EIR'). To the extent that the EIR is applicable he has found that the exception in regulation 12(4)(b) applies and that the public interest favours maintaining the exception. To the extent that the Act applies the Commissioner has concluded that the Council was correct to refuse to comply with section 1(1) on the basis of section 14(1). He has also found breaches of Regulation 14(3) of the EIR and section 17(5) of the Act.

The Commissioner's Role

1. The Commissioner's duty is to decide whether a request for information made to a public authority has been dealt with in accordance with the requirements of Part 1 of the Freedom of Information Act 2000 (the "Act").

   The Environmental Information Regulations (EIR) were made on 21 December 2004, pursuant to the EU Directive on Public Access to Environmental Information (Council Directive 2003/4/EC). Regulation 18 provides that the EIR shall be enforced by the Information Commissioner (the "Commissioner"). In effect, the enforcement provisions of Part 4 of the Freedom of Information Act 2000 (the "Act") are imported into the EIR. This Notice sets out the Commissioner's decision in relation to both Part I of the Act and the EIR.

Background to the complaint

2. The complainant has been in correspondence with the Council over a number of years going back to 2003 with regards to licensing policy and legislation. The complainant, along with other members of a group of people, regularly met at the New Cove Inn until early 2003, to sing and play acoustic musical instruments for their own enjoyment. The Council advised the landlord of the New Cove Inn, that he would require a licence if more than 2 people played music on the premises. There then followed over the next 3 years exchanges of correspondence with the Council as to the interpretation of Section 177 of the Licensing Act 2003. The Council eventually informed the complainant on 19 April 2006 that they were no longer prepared to continue the debate regarding the legislation. The Council subsequently began a consultation exercise in April/May 2007 and invited submissions to a Public Consultation for the review of the Local Statement of Licensing. The complainant made a submission to the Council which subsequently lead to the current information requests.

The Request

3. On 8 December 2007, the complainant wrote to the Council and asked a series of questions regarding the Draft Statement of Licensing Policy. The Council answered the questions in their response of 10 December 2007. They further advised:

> "As far as we are concerned, this represents the last of the information we hold in relation to licensing issues and we will now close the file. Please do not contact us in any form in relation to the issues we have dealt with. Any further communication on this matter will not be responded to".

4. On 13 December 2007, the complainant made the following requests by email:

> "Could you please supply minutes or documents from the meetings to which this document was presented? "
>
> "Can you confirm that the Licensing Committee were not a formal part of the review process for this Statement of Licensing Policy and can you supply me with the documents relating to this, i.e. where this function of local licensing was correctly delegated by the Licensing Committee?".

5. On 16 December 2007, the complainant essentially made the same request again along with a request for some additional information as follows:

> "I would be grateful if you could provide me with the information requested. In particular what the members' response was to the three suggestions made in the document referred to? Or is it safe for the public to assume that there is no response made to the following?

a) Members may wish to make specific reference to the Licensing Authority's desire /obligation to adhere to this guidance when considering whether or not a license is required.
b) Members may wish to give consideration to lobbying Government in support of this recommendation.
c) Members may also wish to give consideration to the adoption of a Code of Practice on license conditions in order to allay his fear.

Also, I can find no record of any specific deliberations which resulted in the change to 5.6.2: in the revised Statement of Licensing Policy: i.e. The addition of the following: Whether or not music of this kind is `incidental` to other activities will be judged on a case by case basis.

Reference is made here to the Brief Holder. Who does this currently refer to and are the documents available to show the decisions which resulted in this appointment?"

6. The complainant made a further request on 18 January 2008 as follows:

"Was the list provided in the Licensing Manager's report a correct and complete one?"

"Assuming that it was, could you advise the reasons why The Cove House Inn and The New Star do not qualify and what others premises may be excluded for these same reasons?"

7. The Council advised the complainant on 23 January 2008 that they would not be responding to any correspondence regarding licensing issues and that they considered his requests to be vexatious. They advised the complainant that he was free to contact them on any other matter. The Council informed the complainant that they did not offer an appeal against the decision and that he was free to appeal the decision via the Information Commissioner.

The Investigation

Scope of the case

8. On 28 January 2008 (the letter is incorrectly dated 2007) the complainant contacted the Commissioner to complain that the refusal of the requests on the basis that they were vexatious was unjustified. The Commissioner identified that the requests, at least in part, sought information that was likely to fall within the definition of environmental information in Regulation 2(1) of the EIR. Therefore the EIR should have been considered by the Council when responding to the requests. The closest equivalent provision to section 14(1) under the EIR is Regulation 12(4)(b). Therefore the Commissioner has considered whether both Regulation 12(4)(b) and section 14(1) applied to the requests in this case. For the avoidance of any doubt the requests that are the subject of this decision notice are those of the 13 and 16 December 2007 and 18 January 2008.

Chronology

9. The Commissioner wrote to the complainant on 16 January 2009 outlining the scope of the investigation.

10. Having reviewed the available correspondence that had passed between the Council and the complainant, the Commissioner wrote to the Council on 21 January 2009 and requested further explanation of the reason why it had considered the requests to be vexatious.

11. The complainant contacted the Commissioner with a view to incorporating an earlier appeal that was closed on 26 February 2008, with the current appeal. This was rejected by the Commissioner.

12. In its response of 2 February 2009, the Council provided all the background information related to its relationship with the complainant, accompanied by all his requests to date.

13. On 27 February 2009 the Commissioner wrote to the Council and set out the criteria that he considers when assessing whether or not a request has been appropriately refused on the basis that it is vexatious. He asked the Council to consider each of the factors outlined and to let him have their comments as to why they felt the requests met the criteria therein.

14. The Council responded on 6 April 2009 and provided the information requested by the Commissioner. The Council provided the evidence, using the guidelines laid out in the Commissioner's awareness guidance on section 14, as to why they considered the complainant's request to be vexatious.

15. Having looked further at the request, the previous dealings between the complainant and the PA and particularly taking into account the focus on section 177, the Commissioner determined that it is likely that to some extent the information requested would constitute environmental information as defined in regulation 2(1) of the EIR and therefore the regulations should have been considered by the Council when it responded to the requests. Therefore, as mentioned above, the Commissioner has considered the provisions of both the EIR and the Act when determining whether or not the Council appropriately refused to comply with the requests.

Analysis

Procedural matters

16. In this case the Commissioner has concluded that the requests were for a combination of environmental and non-environmental information in view of the objectives of the Licensing Act 2003 to which the draft licensing policy relates. There are four licensing objectives as follows, prevention of crime and disorder, protection of public safety, protection of children from harm and the prevention of public nuisance (including from noise).

17. In the Commissioner's view the final objective of preventing public nuisance, a key element of which is minimising noise transmission from any licensed premises, suggests that the requests are in part subject to the EIR. Furthermore, although not explicitly stated, the complainant's focus throughout the requests is his interest in the authority's interpretation of section 177 of the Licensing Act.

18. Regulation 2(1) of the EIR provides the definition of environmental information. In this case the Commissioner considers Regulation 2(1)(c) to be relevant on the basis that some of the information requested is on legislation affecting or likely to affect the elements and factors referred to in subsections (a) and (b). In this case he considers that the legislation, the Licensing Act 2003 and in particular section 177 which provides an exemption from certain licence conditions, is likely to affect noise that can be created at specified premises which in turn affects the air and atmosphere.

19. The performance of live music is a regulated activity for which a licence is required. The licensing authority can attach conditions related to noise to a licence. However there are certain circumstances in which the conditions that can be placed on a licence are restricted. According to one Council website these key exemptions are as follows:

- Live music at small premises (Section 177) - Where there is musical entertainment at premises which have a permitted capacity of not more than 200 persons and are used primarily for the supply of alcohol for consumption on the premises, only licence conditions relating to either crime and disorder or public safety apply to that musical entertainment i.e. those relating to protection of children from harm or public nuisance do not apply to the musical entertainment. However, if there is a review of the licence then the exempted conditions can be applied. Where there is a performance of live music between 8am and midnight (and no other form of regulated entertainment) at such premises then no licence conditions can apply with regard to the musical entertainment unless there is a review of the licence.
- Place of Worship (Schedule 1, Part 2 Exemptions) - Premises such as churches do not require a premises licence for activities, which would otherwise be classified as 'regulated entertainment' taking place at the church.

- Garden Fetes, etc (Schedule 1, Part 2 Exemptions) - Entertainment provided at a garden fete, or similar event, is not 'regulated entertainment' and thus requires no licence.

20. In light of the above the Commissioner is satisifed that to the extent the requests focus on the public authority's interpretation of section 177, they constitute requets for material on a measure that is likely to affect noise and in turn the air and atmosphere. This is because the public authority's interpretation of that section will determine where certain licence conditions related to limiting noise at a particular premises will not apply. Therefore the requests are in part for information falling under regulation 2(1)(c) of the EIR. Where the information requested is not on a measure as defined by regulation 2(1)(c) the matter should be considered under the Act and therefore the Commissioner has, as mentioned above, considered both the EIR and the Act in this case.

Regulation 14

21. In failing to identify that the requests were partly for environmental information and as such subject to the EIR and to issue a refusal notice citing Regulation 12(4)(b) the public authority breached Regulation 14(3).

Section 17

22. Section 17(5) states:

"A public authority which, in relation to any request for information, is relying on a claim that section 12 or 14 applies must, within the time for complying with section 1(1), give the applicant a notice stating that fact." The public authority breached section 17(5) in failing to provide a notice citing section 14(1) in response to the requests for non-environmental information made on 13 and 16 December 2007 within twenty working days of receiving those requests.

Regulation 12(4)(b) and section 14(1)

23. Article 4 of the European Directive upon which the EIR are based requires that exceptions are read restrictively. In addition the exception under 12(4)(b) is subject to a public interest test whereas section 14(1) of the Act is not. The Commissioner's guidance entitled Environmental Information Regulations[1] recognises that the exception in Regulation 12(4)(b) is likely to apply where the Commissioner has concluded that a request would be vexatious under section 14(1). In this case, given that there are additional requirements attached to Regulation 12(4)(b) and that it should be interpreted restrictively the Commissioner has first considered whether the requests for environmental information are manifestly unreasonable.

24. Notwithstanding that there are differences between Regulation 12(4)(b) and section 14(1) the Commissioner nevertheless considers it appropriate to consider

[1] http://www.ico.gov.uk/upload/documents/library/environmental_info_reg/introductory/introduction_to_eir_exceptions.pdf

the same criteria used when dealing with vexatious requests under the Act, as an aid to judging whether in this case, the requests were manifestly unreasonable under the EIR.

25. The Commissioner's approach when considering vexatious and repeated requests is to consider the following questions:

- Could the request fairly be seen as obsessive or manifestly unreasonable?
- Is the request harassing the authority or causing distress to staff?
- Would complying with the request impose a significant burden?
- Is the request designed to cause disruption or annoyance?
- Does the request lack any serious purpose or value?

Could the request be seen as obsessive or manifestly unreasonable?

26. In assessing whether a request can be deemed obsessive or manifestly unreasonable, a public authority may take into account previous knowledge it has of the applicant and their dealings with that indvidual.

27. The Council pointed out that the core issue of the complainant's campaign and requests was a difference of opinion as to the definition of "incidental music". The complainant did not accept the Council's interpretation and it was their opinion that no amount of debate would have changed the complainant's stance.

28. The Council indicated that the complainant had tried to involve his local councillor, his MP and the Local Government Ombudsman in an attempt to force his opinion on the Council.

29. The campaign by the complainant to change the Council's interpretation of Section 177 of the Licensing Act had already been continuing for over four years when he made the requests that are the subject of this decision notice. The Council felt that the complainant was asking for the same or similar information that had previously been requested and supplied and that therefore his requests could be seen as obsessive.

30. The complainant reported the Council for maladministration for the way it discharged its licensing responsibilities to the Local Government Ombudsman ('LGO'). The LGO dismissed the compliant and did not find any evidence to suggest that the Council had been unreasonable in their assessment of their licensing responsibilities. The Commissioner considers that a decision that a request(s) can be deemed obsessive can be most easily reached where a complainant continues with the request(s) despite being in possession of other independent evidence on the same issue, in this instance the findings of the LGO. The Information Tribunal has endorsed this view. In its decision of *Welsh v Information Commissioner (appeal Number: EA/2007/0088)* the Tribunal stated:

> *"…Mr Welsh simply ignores the results of 3 separate clinical investigations into his allegation. He advances no medical evidence of his own to challenge their findings…..that unwillingness to accept or engage with contrary evidence is an indicator of someone obsessed with his particular*

viewpoint, to the exclusion of any other…it is the persistence of Mr Welsh's complaints, in the teeth of the findings of independent and external investigations, that makes this request, against that background and context, vexatious…." (paras 24 &25).

31. The Commissioner has concluded that the requests, in the context of a campaign by the complainant to change the interpretation of the licensing legislation, can be seen as being obsessive. The requests all centred on licensing issues and the complainant has made the same requests to more than one individual in the Council. In one instance the same information was requested from the Records Manager and the Chief Executive of the Council. The Commissioner also notes that a response to one request appears on many occasions to have generated further requests.

Was the request designed to cause disruption or annoyance?

32. The Council has pointed out that complainant continued to write to them regarding the same issues even though they had advised him that they would not respond to any more letters from him on more than one occasion. The complainant responded on 18 January 2008 to the Council's request to stop writing to them on the subject matter with the comment "I intend to continue to ask for the information I require". Furthermore it asserted that when a Councillor suggested to the complainant that his campaign to change the Council's interpretation of the Licensing Act 2003 was over, following the consultation in 2007, the complainant responded "I'll think of something else". The Council has suggested that this illustrates that the requests were designed to disrupt or annoy the Council. In the Commissioner's view these statements illustrate the complainant's persistence and commitment to the issues related to the Licensing Act that are of concern to him. Having considered all of the background and history the Commissioner does not consider that the requests were specifically designed to cause disruption or annoyance.

Did the request have the effect of harassing the public authority or causing distress to staff?

33. This criterion takes into account the effect requests have on a public authority regardless of the applicant's intention. In *Gowers v Information Commissioner (Appeal Number: EA/2007/01149)* the Tribunal stated:

"…what we do find is that the Appellant often expressed his dissatisfaction with the CCU in a way that would likely have been seen by any reasonable recipient as hostile, provocative and often personal…and amounting to a determined and relentless campaign" (paras 53 & 54).

34. The complainant's requests by themselves do not contain any evidence of deliberate harassment nor do they contain particularly tendentious language. However, whilst the Commissioner does not accept that the requests were designed to cause disruption or annoyance, when put into the context of his long standing dispute with the Council and the correspondence that originated from it,

he accepts that the requests can be said to have the effect of harassing the Council.

35. The Council have pointed out that the complainant continues to "pester officers and Councillors" in an attempt to circumvent the legislation. They highlighted the incident of 8 March 2008 in which the complainant accosted his ward councillor outside the public toilet and made insulting gestures to him. Though the incident was said to have been witnessed by members of the public there is no independent verification of this. There is however no reason to doubt the veracity of the statement made by the Councillor in question.

36. The Commissioner is satisfied that the requests in the context of the campaign by the complainant over a number of years have the effect of harassing.

Would complying with the request impose a significant burden?

37. The Council pointed out that at the time of the request the complainant had been pursuing the matter for the previous four years. They further stated that they had committed a significant amount of resource in terms of staff time to responding to the requests. The Council's dealing with the complainant had not only involved the Freedom of Information Officer but also two directors, all members of the licensing team, the Environmental Health manager and the Legal Services. In the case of *Welsh v Information Commissioner* the Tribunal stated, with regards to whether a request represents a significant burden, that it is:

> "*not just a question of financial resources but also includes issues of diversion and distraction from other work…"* (para 27).

38. In the case of *Gowers* the Tribunal said:

> "*that in considering whether a request is vexatious, the number of previous requests and the demands they place on the public authority's time and resources may be a relevant factor* (para 70).

39. In the case of *Coggins v Information Commissioner (Appeal number: EA/2007/0130),* the Tribunal found that a *"significant administrative burden" (*para 28) was caused by the complainant's correspondence with the public authority which started in March 2005 and continued until the public authority cited s.14 in May 2007. The complainant's contact with the public authority ran to 20 FOIA requests, 73 letters and 17 postcards. The Tribunal said this contact was "*…long, detailed and overlapping in the sense that he wrote on the same matters to a number of different officers, repeating requests before a response to the preceding one was received….the Tribunal was of the view that dealing with this correspondence would have been a significant distraction from its core functions…"* (para 28).

40. The Council stated, as evidenced by the Commissioner, that every response to requests was met with further requests for information. To compound matters, the Council stated that the complainant sometimes "buries" requests within requests which take extra time to identify and deal with. In the case of *Gowers* the Tribunal said:

"*that in considering whether a request is vexatious, the number of previous requests and the demands they place on the public authority's time and resources may be a relevant factor* (para 70).

41. The complainant's requests over a number of years have involved various members of the Council. The Commissioner has seen the substantial amount of correspondence that has been generated between the various members. This state of affairs has been continuing for over five years without any hope for an amicable resolution. The Commissioner is satisfied that bearing in mind this background and particularly noting the different individuals across the organisation that were required to have input when responding, the requests in question imposed a significant burden on the Council.

Does the request lack any serious purpose or value?

42. The underlying purpose of the requests was to elicit a change in the way the Council interpreted the legislation with regards to licensing. The matter of maladministration by the Council's Licensing Section in respect of their interpretation of the Licensing Act has already been reviewed by the Local Government Ombudsman. The LGO`s conclusion was that there was no evidence of "maladministration by the Council in the way that it has discharged its licensing responsibilities".

43. The Commissioner believes that to label a request as having no serious value is tantamount to suggesting that the requestor is being frivolous by simply asking for the information in question. The ultimate goal of the requests was to better understand how the Council had reached its decisions in relation to its interpretation of legislation and to bring about a change to that interpretation. However it is evident from correspondence that the Council's decision, with regards to licensing policy was arrived at after a lengthy consultation period. The Council are adamant that they have followed the correct procedures in arriving at their decision, a view that is echoed by the LGO. It is also noted that the complainant has been supplied with a considerable amount of information about the basis for the Council's interpretation of the legislation in question. Notwithstanding this, the Commissioner accepts that it is reasonable to conclude that the request did, from the point of view of the complainant, have a serious purpose as it sought information to further understand the Council's rationale.

Conclusion

44. In this case the Commissioner does not believe that the requests submitted by the complainant were specifically designed to cause disruption or annoyance. Moreover he is satisfied that they did have a serious purpose as they sought further information to understand and challenge the Council's interpretation of

various provisions of the Licensing Act 2003. However the Commissioner is also satisfied that, when taken in the context of the complainant's previous correspondence and the general background to the requests, they nevertheless placed a significant burden on the Council, had the effect of harassing the public authority and could be seen as being obsessive. In this instance, given the fact that the Council has supplied a considerable amount of information to the complainant, has invited him to participate in the consultation regarding the Licensing Act 2003 and in light of the independent decisions of the LGO the Commissioner does not consider that the requests have such serious purpose or value that it would be inappropriate to deem the requests manifestly unreasonable.

The Public Interest

45. As previously mentioned the exception under 12(4)(b) of the EIR is subject to the public interest test in Regulation 12(1)(b). This dictates that the Commissioner must consider whether in all the circumstances of the case, the public interest in maintaining the exception outweighs the public interest in disclosing the information.

46. The Commissioner also notes the specific presumption in favour of disclosure under 12(2) of the EIR which means that if the factors on both sides are evenly balanced, the public authority should respond to the requests.

47. In favour of the Council responding to the refused requests, the Commissioner considered that the general purpose of the EIR is to enable the public to access information which affects or is likely to affect the environment. This has the clear benefit of promoting accountability and transparency as well as enabling individuals to access information which may help them to challenge a decision made, or any action taken, by the public authority which impacts upon them. This in turn promotes democracy and public participation.

48. The Commissioner also notes that the wording and interpretation of section 177 of the Licensing Act and the term 'incidental music' appear to be matters of some public debate and concern. In particular there seems to be frustration that the term incidental music is not more clearly defined and that the wording of section 177 is convoluted. This seems to have resulted in inconsistencies of implementation across different licensing authorities. In view of this, the Commissioner considers that the public interest arguments about responding to the request to further public understanding and enable individuals to participate in the debate from a more informed position have some weight.

49. The Commissioner also recognises that in this particular case it is important that the public are reassured that the Council is showing regard to the proper formal processes in place.

50. Notwithstanding the comments above, the Commissioner must consider the public interest arguments in maintaining the exception in regulation 12(4)(b). While public authorities are being encouraged towards goals of transparency and accountability which benefit the public as a whole, neither the EIR nor the Act

require public authorities to respond to requests that are either manifestly unreasonable or vexatious. Regulation 12(4)(b) ensures that public authorities do not have to respond to requests that impose a significant burden or distract staff from the many other important duties conferred upon them by government unless the public interest favours disclosing the information. As explained previously, the Commissioner considers that the requests in this case do have these effects. In addition to ensuring that public authorities are not subjected to harassment or distracted from their core functions there is also a public interest in maintaining the exception in this case so that the public authority is able to use the resources it has available to respond to other members of the public seeking to exercise their rights of access under the EIR. In this case the Commissioner notes that the public authority has provided the complainant with a considerable amount of information in relation to his earlier requests and it has invited him to input into the consultation regarding the Licensing Act. In view of this he considers that there is a considerable public interest in ensuring that the public authority can focus on responding to requests from other members of the public.

51. The Commissioner accepts that there is public debate as to the interpretation of section 177 and the definition of `incidental music`. However although he believes the arguments in favour of responding to the requests have some weight he has given them less significance than he might otherwise have done given that the public authority's actions have been subject to LGO investigation and that there was no case to answer. Furthermore the Commissioner has also taken into account the fact that the requests that are the subject of this decision were made after the completion of the consultation period and therefore the possibility of influencing decisions made by the licensing authority was in fact somewhat limited by that stage. In all the circumstances of this case, the Commissioner considers that the public interest in maintaining the exception under 12(4)(b) outweighs the public interest in disclosing the information.

52. The Commissioner is satisfied, having concluded that the exception in 12(4)(b) applies under the EIR, that to the extent that the requests are for non-environmental information section 14(1) was appropriately applied under the Act. He has reached this conclusion for the same reasons that he has concluded that the exception in Regulation 12(4)(b) is engaged. As indicated previously the public interest test does not apply to section 14(1) and therefore it has not been necessary to consider it in relation to the requests for non-environmental information.

The Decision

53. The Commissioner's decision is that to the extent that the requests were for environmental information the public authority failed to consider the EIR. In failing to issue a refusal notice citing Regulation 12(4)(b) the public authority breached Regulation 14(3). However he has concluded that the exception in Regulation 12(4)(b) applied to the requests to the extent that they were for environmental information and that the public interest favoured maintaining the exception.

To the extent that the requests were for non-environmental information the Commissioner is satisfied that the public authority appropriately cited section 14(1) and that therefore it was not obliged to comply with section 1(1) of the Act.

54. In relation to the non-environmental information, in failing to provide a refusal notice citing section 14(1) within 20 working days of receipt of the requests dated 13 and 16 December 2007, the Council breached section 17(5) of the Act.

Steps Required

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55. The Commissioner does not require any remedial steps to be taken in this case.

Right of Appeal

56. Either party has the right to appeal against this Decision Notice to the Information Tribunal. Information about the appeals process may be obtained from:

Information Tribunal
Arnhem House Support Centre
PO Box 6987
Leicester
LE1 6ZX

Tel: 0845 600 0877
Fax: 0116 249 4253
Email: informationtribunal@tribunals.gsi.gov.uk.
Website: www.informationtribunal.gov.uk

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.

Any Notice of Appeal should be served on the Tribunal within 28 calendar days of the date on which this Decision Notice is served.

Dated the 13th day of August 2009

Signed ……..

Jo Pedder
Senior Policy Manager

Information Commissioner's Office
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Wilmslow
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Legal Annex

Freedom of Information Act 2000

General Right of Access

Section 1(1) provides 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

Vexatious or Repeated Requests

Section 14(1) provides that-

"Section 1(1) does not oblige a public authority to comply with a request for information if the request vexatious."

Refusal of Request

Section 17(5) provides that-

"A public authority which, in relation to any request for information, is relying on a claim that section 12 or 14 applies must, within the time for complying with section 1 (1), give the applicant notice stating that fact".

Environmental Information Regulations

Regulation 2(1)

"environmental information" has the same meaning as in Article 2(1) of the Directive, namely any information in written, visual, aural, electronic or any other material form on-

(a) the state of the elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites including wetlands, coastal and marine areas, biological diversity and its components, including genetically modified organisms, and the interaction among these elements;
(b) factors, such as substances, energy, noise, radiation or waste, including radioactive waste, emissions, discharges and other releases into the environment, affecting or likely to affect the elements of the environment referred to in (a);
(c) measures (including administrative measures), such as policies, legislation, plans, programmes, environmental agreements, and activities affecting or likely to affect the elements and factors referred to in (a) and (b) as well as measures or activities designed to protect those elements"

Regulation 12(1)

Subject to paragraph (2), (3) and (9), a public authority may refuse to disclose environmental information requested if-

(a) an exception to disclosure applies under paragraphs (4) or (5); and
(b) in all circumstances of the case, the public interest in maintaining the exception outweighs the public interest in disclosing the information.

Regulation 12(2) A public authority shall apply a presumption in favour of disclosure.

Regulation 12(4)

For the purposes of paragraph (1)(a), a public authority may refuse to disclose information to the extent that –

(b) the request for information is manifestly unreasonable.