

Freedom of Information Act 2000 (FOIA)
Environmental Information Regulations 2004 (EIR)
Decision notice

Date: 21 June 2021

Public Authority: Rhondda Cynon Taff County Borough Council
Address: FreedomOfInformation@rhondda-cynon-taff.gov.uk

Decision (including any steps ordered)

1. The complainant made 44 information requests over a 10 day period. Rhondda Cynon Taff County Borough Council refused the requests relying on section 14(1) (vexatious request) of the FOIA on the basis that complying with the requests would place a disproportionate burden on its resources. During the course of the Commissioner's investigation, the Council also cited regulation 12(4)(b) (manifestly unreasonable request) of the EIR to refuse those requests which included environmental information. The Commissioner's decision is that the Council was entitled to rely on section 14(1) of the FOIA and regulation 12(4)(b) EIR to refuse the requests. The Commissioner does not require the Council to take any steps.

Request and response

2. Between 13 September 2019 and 23 September 2019, the complainant submitted 44 requests for various information, some of which were multipart. Two of these requests have been reproduced below to give an indication of the general nature of the requests, but for the purposes of convenience, the remainder can be found in the annex which accompanies this notice.
 - (i) *"Please can you provide all NON confidential correspondence deposited with departments of the Council from Ynysybwl & Coed y Cwm in the past SIX years? Ynysybwl & Coed y Cwm Community Council."*

(ii) *"...all NON confidential audit trail correspondence between ALL RCT departments and Daerwynno Outdoor Activity Centre, Ynysybwl, over the past six years."*

3. Rhondda Cynon Taff County Borough Council ('the Council') responded on 8 October 2019 informing the complainant that it was refusing all 44 requests on the basis of section 14(1) of the FOIA as fulfilling the requests would cause a disproportionate burden and unjustified level of disruption and strain on resources.
4. Following an internal review the Council wrote to the complainant on 10 January 2020. It confirmed that it was upholding its original response to refuse the requests on the basis of section 14(1) of the FOIA.

Scope of the case

5. The complainant contacted the Commissioner 30 January 2020 to complain about the way his requests for information had been handled. He considered that refusing the requests as vexatious could be interpreted either that the Council did not want to give the information, or that it was too much work to complete. He further informed the Commissioner that he had been trying to be reasonable by indicating that the timescale for response could be spread over a 12 month period.
6. The scope of the following analysis considers whether the Council was entitled to rely on section 14(1) FOIA and regulation 12(4)(b) EIR to refuse the requests.

Reasons for decision

The appropriate legislation

7. The Commissioner has first considered whether any of the requested information is environmental in accordance with the definition given in regulation 2(1) of the EIR:

"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..."

8. The Commissioner notes that the requests include a number of very broad requests for all non-confidential correspondence deposited with the Council's departments from its Ynysybwl Ward which are likely to include environmental information, and in addition, some of the requests appear to have a more specific environmental aspect to them, including requests in respect of waste services and disposal of waste, traffic management and wind turbines, renewing a damaged bridge, and what the complainant referred to as a dilapidated hall which he considered might be potentially dangerous. The Commissioner is therefore satisfied that at least some of the information requested is likely to constitute information on "measures" as defined by regulation 2(1)(c), and is therefore environmental information.

Section 14(1) – vexatious request

9. Under section 14(1) of the FOIA a public authority is not obliged to comply with a request for information if the request is vexatious.
10. The term "vexatious" is not defined in the FOIA, but the Commissioner has identified a number of key "indicators" which may be useful in identifying vexatious requests. These are set out in her published guidance, but in short, they include:
 - Abusive or aggressive language.
 - Burden on the authority – the guidance allows for public authorities to claim redaction as part of the burden.
 - Personal grudges
 - Unreasonable persistence
 - Unfounded accusations
 - Intransigence
 - Frequent or overlapping requests.
 - Deliberate intention to cause annoyance.

11. The fact that a request contains one or more of these indicators will not necessarily mean that it must be vexatious. All the circumstances of the case will need to be considered in reaching a judgement as to whether a request is vexatious.
12. The Commissioner's guidance goes on to suggest that, if a request is not patently vexatious, the key question the public authority must ask itself is whether the request is likely to cause a disproportionate or unjustified level of disruption, irritation or distress. In doing this the Commissioner considers that the public authority should weigh the impact of complying with the request against its purpose and value.
13. Where relevant, public authorities also need to take into account wider factors such as the background and history of the request.
14. When relying on section 14(1) on the basis of disproportionate burden, the Commissioner's published guidance states that an authority is most likely to have a viable case to apply section 14(1) where:
 - the requester has asked for a substantial volume of information AND,
 - the authority has real concerns about potentially exempt information, which it will be able to substantiate if asked to do so by the ICO AND,
 - any potentially exempt information cannot easily be isolated because it is scattered throughout the requested material.
15. In its submission, the Council has confirmed to the Commissioner that to comply with these requests would necessitate every department (and potentially every officer of the Council) to establish:
 - (a) whether the Council holds any relevant information
 - (b) locate and retrieve that information
 - (c) determine whether an exemption or exemptions apply to any part of that information

The requester has asked for a substantial volume of information

16. The Commissioner notes that the Council informed the complainant in its initial response, that when taking into account the period of time over which his requests were submitted, the volume of the requests and the potential breadth of the majority of the requests, processing them would cause a disproportionate and unjustified level of disruption. Furthermore, it stated that in its view, a reasonable person would think

the purpose and value of completing the requests was insufficient to justify the impact on the authority, particularly in a time of limited resources.

17. Additionally, the Council argued that the apparent scattergun approach to the themes running throughout the series of requests appears to be part of a random approach, particularly as it considers that the majority of the requests lack any clear focus and appear to have been designed for the purpose of "fishing" for information without any idea of what might be revealed.
18. The Council informed the complainant that whilst the motivation for his requests may have been a genuine public interest, the timing and frequency of the requests and their scattergun nature was excessive.
19. Following the Commissioner's investigation, the Council informed the Commissioner that it would necessitate significant searches to be undertaken given that the Council (in most cases) holds no central record of the nature of information being requested. It added that many of the requests were for "any correspondence" or "paper trails", some spanning six years, with one such request asking to provide "further and better details" on a particular issue.
20. The Council further explained that it would need to look through a substantial volume of information to extract relevant information. It stated that it would take officers from several departments significant time to obtain the information.
21. The Council stated that it holds thousands of emails and to locate, extract and present the totality of the information would require many hundreds of hours of officer time. It stated that this would bring the day to day operation of the relevant service areas to a standstill.

The authority has real concerns about potentially exempt information, which it will be able to substantiate if asked to do so by the ICO

22. The Council further considers that when the requests are taken together, a potentially significant exercise would need to be undertaken to consider if any exemptions applied to the information. This in turn, would need to be reviewed by the Council's FOI officer to ensure that the exemptions had been applied appropriately, and to liaise with a number of individuals and business areas to make sure the information was properly understood.
23. The Council stated that it is entirely probable that correspondence between the Council, Ynysybwll Community Council and third parties may contain commercially sensitive information which may be exempt

from disclosure as the Council is likely to have a commercial relationship with those bodies.

24. It has further argued that much of the information is likely to be contained in procurement/tender documentation, contracts, service level, and grant agreements. The Council would therefore need to assess each piece of information in detail to establish whether any exemptions apply.
25. Additionally, there is potentially personal information, not appropriate for disclosure contained within the information which would also need to be redacted.

Any potentially exempt information cannot easily be isolated because it is scattered throughout the requested material.

26. The Council has also informed the Commissioner that potentially exempt information is likely to be scattered throughout any relevant information due to the wide nature of the correspondence requested, and that much does not relate to a specific issue.

The Commissioner's conclusion

27. The Commissioner has considered the arguments from the Council presented above and is satisfied that the requests cover a substantial volume of information as detailed in paragraphs 16 to 21 of this notice.
28. She also considers it highly likely that the Council would need to undertake a significant exercise to determine a range of potential exemptions which may be engaged, and that any potentially exempt information is unlikely to be easily isolated, given the varied topics and broad nature of the requests.
29. As well as the specific arguments advanced by the Council, the Commissioner notes that the sheer number of requests made by the complainant meant it was almost inevitable that complying with them would amount to a disproportionate burden upon the Council.
30. The Commissioner has therefore concluded that the requests covering non environmental information can be categorised as vexatious under section 14(1) of the FOIA on the basis of the disproportionate burden complying with them would cause the Council. The Council was not, therefore, obliged to comply with those requests.

Regulation 12(4)(b) – manifestly unreasonable

31. Regulation 12(4)(b) provides that a public authority may refuse to disclose information to the extent that the request for information is manifestly unreasonable.
32. Regulation 12(4)(b) of the EIR is designed to protect public authorities from exposure to a disproportionate burden or an unjustified level of distress, disruption or irritation in handling information requests.
33. In this case the Council asserted that complying with the request would impose a significant and detrimental burden on its resources, in terms of staff time and cost.
34. For similar reasons as given above in the section 14(1) analysis, the Commissioner finds that, to the extent that the complainant's information requests were for environmental information, they were manifestly unreasonable and hence regulation 12(4)(b) was engaged. The most significant factor contributing to this finding is the number of requests made by the complainant and the burden they would impose on the Council.

Public interest Test

35. Regulation 12(4)(b) of the EIR is subject to a public interest test, as required by regulation 12(1)(b), and so the Commissioner must decide whether the public interest in maintaining the exception is stronger than that in complying with the request.

The public interest in the information being disclosed

36. The Council accepts there is a public interest and need for transparency and accountability in relation to decisions it makes regarding Community Councils within its boundaries. It also acknowledges that disclosure would allow individuals to better understand decisions that affect them.

The public interest in the exception being maintained

37. The Council does not consider the diversion of resources from many areas of its core business required to comply with these requests as being in the public interest.

Balance of the public interest

38. The Commissioner recognises the importance of accountability and transparency with regard to decision-making by public authorities and the necessity of a public authority bearing some costs when complying with requests for information. However, in considering the public interest test for this case, the Commissioner must assess whether the

cost of compliance to, and impact on, the Council is proportionate to the value of the requests.

39. In this case, the sheer volume of requests means that the Commissioner's view is that the public interest clearly lies in maintaining the exception, rather than in the Council diverting the significant resources that would be required for it to comply with these requests. Therefore, her conclusion is that the public interest in the maintenance of the exception outweighs the public interest in disclosure and, to the extent that the requests were for environmental information, the Council was not obliged to comply with them.

Right of appeal

40. 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

41. 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.

42. 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 Dickenson
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF**

Annex

Requests

1. On Saturday 14th September, 2019, RCT council are helping to sponsor the sub regional RHONDDA PRIDE event at Treorchy ,RCT. Please can you provide me with the following ; The RCT staffing costs for this event. The RCT marketing costs for this event. The RCT cash only investment in this event. Case ID 101005231315
2. On Saturday 14th September , 2019, RCT council are helping to sponsor the sub regional RHONDDA PRIDE event at Treorchy ,RCT. Please can you provide me with the following ; The RCT staffing costs for this event. The RCT marketing costs for this event. The RCT cash only investment in this event. Case ID101005231510
3. Please could you supply all NON confidential information regarding an audit paper trail, received & returned correspondence with ALL RCT departments over the past six years with local member for Ynysybwl & Coed y Cwm, Case ID 101005231597
4. Please can you provide all NON confidential correspondence between RCT council departments & the Friends of butchers Pool, Ynysybwl. Period from 1/4/16 to date. Case ID 101005231643
5. Please can you provide all NON confidential audit trail correspondence between ALL RCT departments and Daerwynno Outdoor Activity , Centre, Ynysybwl, over the past six years. Case ID 101005231700
6. Please can you supply ALL NON confidential audit trail paper correspondence over the last 3 years between ALL RCT council departments & Ynysybwl Regeneration Partnership, including the Vision Project. Case ID 101005231728
7. Please can you supply information on any correspondence or council policy providing a safety crossing between Clydach Road & the Ynysybwl Road public footway leading to butchers pool, at Ynysybwl. Case ID 101005233721
8. Please can you supply any NON confidential k correspondence regarding the allotments to the rear of Robert Street, Ynysybwl . In particular the overgrowth to the rear of the west of Robert Street abutting Thompson Villars. Case ID 101005233463
9. Please can you provide any information in respect of the following ; The flats at New road abutting Dan y Cribyn , Ynysybwl . Formerly a retail outlet. The information requested is in regard to waste services & disposal of waste from the said property. Case ID 101005233464

10. Please can you supply the following; FULL details of the current position of The former colliery site Ynysybwl (Lady Windsor) In respect of potential Housing opportunities, and community gain. Case ID 101005238341
11. Please can you advise how much financial support RCT has given to promote Ynysybwl & Coed y Cwm as a tourist destination in the last six years ? Case ID 101005238342
12. Please can I receive an audit paper trail in respect of the hours of work dedicated to Ynysybwl & Coed y Cwm Community Council as part of the agreement between Ynysybwl & Coed y Cwm Council and RCT County Council since the agreement was signed in 2019. Throughout the contract period. Case ID 101005241155
13. Please can I receive information regarding the Governing body of Pontypridd High School, Cilfynydd, Pontypridd. Specifically the following; The accuracy and dates when nominations from RCT council were made and the number of candidates who applied from the elected members of said RCT Council. Case ID 101005241203
14. Please can you advise what research or actions have been taken by RCT council following the draft proposals for traffic management changes within the village of Ynysybwl, from Ynysybwl & Coed y Cwm Community Council, presented to local RCT member Cllr .S.Pickering at their community council meeting on 4th, October, 2018 ? Case ID 101005241241
15. Please can you advise regarding the most recent submissions made by RCT council to the Welsh Boundary commission regarding the Ynysybwl & Coed y Cwm Ward of the said RCT council. Case ID 101005241316
16. Please can you provide me with an up to date audit updated paper trail in respect of the following RCT highway officer reports in respect of; Highway management issues first RCT officers draft report T 2918/19/1. In respect of Cribyn Ddu/ Grove Terrace/Glyn Street /Crawshaw Street & High Street, Ynysybwl. Case ID 101005241445
17. Please can you supply an update in respect of draft RCT traffic management proposals for Windsor place, Other Street & Clydach Road, Ynysybwl. The original draft suggestions were issued by RCT traffic management department in 11/1/18. Case ID 101005241604
18. Please can you provide any details of the current traffic management proposals within RCT council for planning application number 18/0877/10. Including the logistical proposals developing these proposals. Re- Wind Turbines at Llwynceilyn Farm, Porth, Rhondda. Case ID 101005241675

19. Please can you provide update details of T Ref 2018/23/1 draft RCT traffic management proposals provided by RCT traffic management officers on the 08/01/18 in respect of Buarth y Capel with its junction with Rock Terrace, Ynysybwl. Case ID 101005242526
20. Please can you advise all the correspondence in relation to the closing of The former Ynysybwl Library, Robert Street, Ynysybwl ? Case ID 101005242532
21. Please can you advise on the following in respect of Pontypridd Lido located at YMP Pontypridd. The capital expenditure on this facility. 2018/2018 financial year 1/4/18 to 31/3/19. The revenue expenditure surplus or community charge payer losses financial year 1/4/18 to the 31/3/19. Any correspondence requesting the Welsh Government to fund this profiled Welsh National facility & if there is no such correspondence, RCT's comprehensive plans to ensure local RCT community charged funded tax payers have priority when booking this facility. Case ID 101005242561
22. Please can you provide the costs of the consultation RCT highways process in the Abercynon Ward regarding to include; The English and Welsh substantial signage placed on posts throughout the community of Abercynon, including Carnetown, Ynysyboeth and Glancynon. The paper and printing in respect of these proposals. The delivery costs in respect of the proposals. The audit trail as to why their process was started The results of the process, I appreciate, this may be delayed as part of a best practice. However, the costs should be available within the time FOI process. Case ID 101005243871
23. Please can you provide the following; The amount invested in providing a new good football facility at The Waun, part of the Ynysybwl recreation ground, required by the Welsh Football regulatory authorities? Given the lack of changing facilities in order to make the facility fit for purpose, please can RCT council advise on any audit paper trail where the thought process was of providing a good football facility, however, due to the lack of reasonable acceptable FAW governing body changing facilities will not be used during the football season 2019/2020. Case ID 101005244565
24. Please can you advise the capital expenditure from RCT council at Ynysybwl Recreation Ground during the following financial years. 2015/2016 2016/2017. 2017/2018 2018/2019. Case ID 101005244638
25. Please can you provide the content and response of ALL NON confidential correspondence between users of the Ynysybwl Recreation facility over the previous SIX years? Case ID 101005244703

26. Please can you provide a financial synopsis in respect of the Leisure expenditure to the community of Ynysybwl & Coed y Cwm over the last SIX years? Case ID 101005244705
27. Please can you provide the following information; The total cost, including marketing, security, etc of the Whitsun holiday weekend event held at Aberdare park 2019. The approximate number of people in attendance . Case ID 101005244710
28. Please can you provide the amount of financial support given to Pontypridd Rugby club by RCT council over the past five years to include capital and revenue expenditure. Also to be included is the sponsorship on Pontypridd RFC rugby kit? Case ID 101005244767
29. Please can RCT provide details on the arrangements for Public Toilets in Ynysybwl. Please include opening times. The location etc. The logistics for the provision of the service. The costs of this facility during the financial year 2017/2018 & 2018/2019. Case ID 101005244785
30. Please can you provide details of how many prosecutions RCT COUNCIL HAS. issued including fines to any residents of Ynysybwl & Coed y Cwm in the last six months? Case ID 101005244787
31. Please can you advise the current RCT 2019/2020 revenue budget & capital budget in respect of Ynysybwl Cemetery, situated at the junction of Heol y Plwyf & Church Street. Case ID 101005244808
32. Please can you advise the current RCT capital acquisition costs for a new proposed cemetery at The rear of Dan y Cribyn housing estate Ynysybwl. Case ID 101005244810
33. Please you advise which community RCT council funded in respect of " safe routes in communities schemes". 2018/19 & 2019/20. Case ID 101005244824
34. Please can you provide further & better details regarding YRP vision project locating to the former goods railway facility abutting WINDSOR PLACE, Ynysybwl. Please include all non confidential information, since RCT have been involved in this project. Case ID 101005244826
35. Please could you advise the time scale for renewing the bridge link from Gelli Road to the former lady Windsor site, Ynysybwl. The bridge is the link across the Clydach river at this currently damaged crossing facility. Case ID 101005244854
36. Please can you advise if there has been ANY RCT traffic management survey within the community of Ynysybwl & Coed y Cwm in the past twelve months ? Case ID 101005244857

37. Please can you advise the revenue & capital budgets for the community of Ynysybwl for ALL back lane improvements over the previous six years .please include this financial year 2019/2020 as one of the six years requested. Case ID 101005244893
38. Please can you advise the current status of the former St. John's ambulance hall located at 69, Crawshaw Street, Ynysybwl. The hall is very dilapidated with a high level of vegetation overgrowth abutting the said property. Please can you advise the actions have been taken by RCT council in the past six years, including this financial year 2019/2020 to remedy this potential dangerous situation in a residential area of the. Community? Case ID 101005244930
39. Please can you advise the current approximate number of potential available plots for gardening allotments within the community of Ynysybwl. Furthermore what plots have been identified and highlighted as available to be transferred to local residents. Case ID 101005244936
40. Please can you update on the January 2018 plans drawn up by RCT traffic management proposals in respect of Clydach Terrace, Ynysybwl. Case ID 101005244938
41. Please can you supply an update in respect one traffic management proposals T2018/23/1 in respect of Rock Terrace with its junction with Buarth Y Capel Estate, Ynysybwl. Case ID 101005244941
42. Please can you advise if there has been any development in respect of the Taff Trail extension at Ynysybwl incorporating a further trail extension to the former Old Ynysybwl railway station? Case ID 101005244942