

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 19 August 2022

Public Authority: Monkton Combe Parish Council

Address: clerk@monktoncombepc.org

Decision

1. The complainant requested information from Monkton Combe Parish Council ("the Council") relating to Oldfield Old Boys RFC.
2. The Commissioner's decision is that the Council is not entitled to rely on regulation 12(4)(b) (manifestly unreasonable) of the EIR to refuse to comply with the request.
3. The Commissioner requires the Council to take the following steps to ensure compliance with the legislation.
 - The Council must issue a fresh response to the request which does not rely on regulation 12(4)(b) of the EIR.
4. The Council must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of FOIA and may be dealt with as a contempt of court.

Request and response

5. The complainant made the following information request to the Council on 4 February 2022:

"I'm writing to you formally to request full disclosure under the Freedom of Information Act of any correspondence between the PA, or individual councillors (via official or personal routes) to anyone, PC internal, or any other party regarding Oldfield Old Boys RFC from 10 December 2021 until now.

We are particularly concerned that there have been communications, including email between the PC/individual councillors and other 3rd parties, whether that be residents, PC councillors, or other parties.

You will be aware that non disclosure of such communications would be an offence, as would alteration of them."

6. The Council refused to provide the requested information citing section 14(1) (vexatious request) of the FOIA as its basis for doing so.

Reasons for decision

7. Whilst the Council has handled the request under the FOIA, as the complainant has requested correspondence relating to a planning application, the Commissioner considers that the requested information is likely to be environmental and therefore, the Council should have handled the request under the EIR.
8. The Commissioner has therefore considered whether the Council is entitled to rely on regulation 12(4)(b) (manifestly unreasonable) of the EIR to refuse to provide the requested information. Regulation 12(4)(b) of the EIR is equivalent to section 14(1) of the FOIA.
9. In its response to the request, the Council stated that it considers the request to be vexatious as the complainant is trying to reopen a matter which has already been comprehensively addressed by the Council at a Parish Council meeting where the requested information was made public verbally. The Council considers the request to be a 'fishing' request as the complainant has requested information without any idea of what might be revealed.
10. The Council stated that the complainant has made multiple requests for information relating to a planning application, with new requests being

made before the Council has had the opportunity to respond to previous requests. The Council considers that the complainant's numerous requests have caused some measure of distress to individuals at the Council. The complainant does not consider their request to be vexatious.

11. The Commissioner recognises that the Council considers that it has already provided the complainant with the requested information. However, as the previous disclosure by the Council was verbal rather than a disclosure of recorded information the Commissioner considers that the specific information requested has not been disclosed to the complainant.
12. As the Council has not previously disclosed the requested information to the complainant, the Commissioner does not consider the request to be manifestly unreasonable. Therefore, the Commissioner's decision is that the Council is not entitled to rely on regulation 12(4)(b) of the EIR to refuse to provide the requested information.
13. The Commissioner requires the Council to provide the complainant with a fresh response to their request which does not rely on regulation 12(4)(b) of the EIR.

Right of appeal

14. 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: 0300 1234504

Fax: 0870 739 5836

Email: grc@justice.gov.uk

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

15. 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.
16. 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

Ben Tomes
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Wycliffe House
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