

## **Environmental Information Regulations 2004 (EIR)**

### **Decision notice**

**Date:** 6 December 2022

**Public Authority:** Durham County Council  
**Address:** County Hall  
Durham  
County Durham  
DH1 5UQ

#### **Decision**

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1. The complainant requested information from Durham County Council ("the Council") relating to the transportation of waste to a specific property.
2. The Commissioner's decision is that on the balance of probabilities, the Council does not hold information within the scope of the request.
3. The Commissioner does not require the Council to take any steps.

#### **Request and response**

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4. The complainant made the following information request to the Council on 15 February 2022:

"Illegal transport of waste [company name redacted]

Under the Freedom of Information Act I would like to see the evidence you have of skip receipts (ticket number, time and date) and evidence of who transported the waste from site to the garage as it would be illegal for anyone without a waste carriers licence to do so."

5. The Council refused to comply with the request citing regulation 12(4)(a) (information not held) of the EIR.

### **Reasons for decision**

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6. This reasoning covers whether the Council is entitled to rely on regulation 12(4)(a) of the EIR to refuse to comply with the request.
7. The complainant considers the Council to hold information within the scope of their request. In their complaint to the Commissioner, the complainant explained that they submitted their request for information to the Council after they made a complaint to the Council about the company named in the request illegally transporting waste to a specific property. The complainant believes that the Council would have obtained the requested information from the company named in the request when the Council investigated their complaint.
8. The Council's position is that it does not hold information within the scope of the request. In its submissions to the Commissioner, the Council explained that whilst it has conducted an investigation into whether the company named in the request has been illegally transporting waste to a specific property, that investigation concluded that the company has not been transporting waste. The Council explained that as the company named in the request has not been transporting waste, the requested information does not exist and is not held by the Council.
9. The Commissioner accepts the Council's reasoning for not holding information within the scope of the request. Therefore, his decision is that on the balance of probabilities, the Council does not hold information within the scope of the request and so the exception provided by regulation 12(4)(a) is engaged.
10. 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

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11. 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](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

12. 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.
13. 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 .....**

**Daniel Perry**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**