

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 7 February 2024

**Public Authority:** Bridgend County Borough Council  
**Address:** Civic Offices, Angel Street  
Bridgend  
CF31 4WB

#### **Decision (including any steps ordered)**

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1. The complainant has requested a list of licensed caravan sites within the Council's administration. Bridgend County Borough Council ("the Council") denied holding the information and directed the complainant to the Shared Regulatory Services.
2. The Commissioner's decision is that the information sought by the complainant is not held by the Council for the purposes of FOIA and that the Council is entitled to rely on section 3(2)(b) (public authorities) of FOIA. The Commissioner also finds that the Council complied with its obligations under Section 16 to offer advice and assistance.
3. The Commissioner does not require any steps to be taken as a result of this decision.

#### **Request and response**

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4. On 15 August 2023, the complainant wrote to the Council and requested information in the following terms:

"I would like to view the definitive public register of licenced commercial residential caravan sites in your administrative area which is expected to indicate

Site Name and address  
Max. No. Licenced pitches  
Licence Holder  
Date of Issue  
Site Rules  
Site Category ( Residential/Holiday and numbers)  
Time Limits  
Fit and proper person - the on line register specified in the Regulations.  
Other notes.

I would also be pleased to receive an indication of your policy in respect of site inspections at such premises indicating frequency of visit, number of compliance notices issued, prosecutions."

5. The Council responded on 1 September 2023. It stated that it did not hold the requested information, as this was held by their Shared Regulatory Services. The Council maintained this position at internal review.

## **Reasons for decision**

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### **Section 1 general right of access to information held by public authorities**

6. Section 1 of FOIA states:

"(1) 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."

### **Section 3(2) – information held by a public authority**

7. Section 3(2) sets out the circumstances in which information is considered to be 'held' for the purposes of FOIA: "For the purposes of this Act, information is held by a public authority if—

(a) it is held by the authority, otherwise than on behalf of another person, or

(b) it is held by another person on behalf of the authority."

8. This sets out a two part definition. Information is held by the public authority, and therefore within scope of an FOIA request, if the authority

holds it (but not if it holds it only on behalf of another person), or if another person holds it on behalf of the authority.

9. The Commissioner's guidance<sup>1</sup> on section 3 explains the circumstances in which information is considered to be held by a public authority for the purposes of FOIA.
10. His guidance also makes it clear that whether information is held by a public authority, or is held on behalf of a public authority, depends on the facts of the case.

### **The complainant's view**

11. The complainant considers that the Council is incorrect in stating that it does not hold any information in scope of the request.

### **The Council's position**

12. In its response to the complainant, the Council stated: "Bridgend County Borough Council does not hold the requested information. The information would be held by the Shared Regulatory Services which covers the Bridgend, Cardiff and the Vale of Glamorgan. Freedom of Information requests in relation to the Shared Regulatory Services are processed by the Vale of Glamorgan Council."

### **The Commissioner's view**

13. The guidance outlines a number of factors that would indicate that information is not held on behalf of a public authority:
  - "the authority has no access to, use for, or interest in the information;
  - access to the information is controlled by the other person;
  - the authority does not provide any direct assistance at its own discretion in creating, recording, filing or removing the information;
  - or the authority is merely providing storage facilities, whether physical or electronic.

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<sup>1</sup> <https://ico.org.uk/for-organisations/foi-eir-and-access-to-information/freedom-of-information-and-environmental-information-regulations/information-you-hold-for-the-purposes-of-foia/>

14. As countervailing factors, the guidance also states:

“Factors that would indicate that the information is also held by the public authority include:

- the authority provides clerical and administrative support for the other person, whether legally required to or not;
- the authority controls access to the information;
- the authority itself decides what information is retained, altered or deleted;
- the authority deals with enquiries about the information; or
- costs arising from holding the information are included in the authority’s overall budget.”

15. The Council has explained that in line with their Shared Regulatory Service Collaboration, the Vale of Glamorgan Council holds information and processes Freedom of Information requests on their behalf. The Council provided a copy of this agreement with their submissions, and the Commissioner has had sight of it.

16. This agreement states that the Vale of Glamorgan Council will be considered the relevant public authority for the purposes of FOIA, will be responsible for the creation, management and storage of information, and will be responsible for controlling access to the information.

17. Due to this evidence, the Commissioner has concluded the Council does not have access to the information and cannot be said to hold it for the purposes of FOIA.

18. The Commissioner notes that, in both its response and internal review response, the Council advised they were not the data controller for the purposes of FOIA, and signposted the complainant to the correct authority and contact details. The Commissioner is therefore also satisfied that the Council met its obligations under section 16 of FOIA.

## Right of appeal

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

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

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