

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

Date: 18 April 2024

Public Authority: Telford and Wrekin Council
Address: Darby House
Lawn Central
Telford
TF3 4JA

Decision (including any steps ordered)

1. The complainant requested from Telford and Wrekin Council (the Council) information relating to Stoneyhill landfill site. The Council refused to comply with the request and cited regulation 12(4)(b) (manifestly unreasonable) of the EIR.
2. The Commissioner's decision is that the Council was entitled to rely on regulation 12(4)(b) of the EIR. Therefore, the Commissioner does not require the Council to take any steps as a result of this decision.

Request and response

3. On 14 July 2023 the complainant wrote to the Council and requested information in the following terms:
 - "1. Please release all Stoneyhill chemical test results for the last year, referred to by [name redacted] at <https://www.youtube.com/watch?v=2npny1honey>
 2. Please confirm whether the testing done after the recent noxious outbreak was "routine", as claimed, or responsive.
 3. Please release list of all contaminants tested for at minimum detection levels and full results.

4. Please confirm whether it is true that the site only received chemicals under waste permit or whether the site also received waste, potentially including "hazardous" chemicals, before the permitting regime."
4. On 10 August 2023 the Council wrote to the complainant and detailed his requests which he had submitted to the Council – 7 requests in 9 working days. It informed the complainant that it does not intend to respond to his requests and applied regulation 12(4)(b) (manifestly unreasonable) of the EIR to the request. However, the Council provided him with some additional information as it considered it may help address his questions. It also directed the complainant to the Environmental Agency, and provided a link to its website should he have further environmental concerns, he can lodge these with them.
 5. On 11 August 2023 the complainant wrote to the Council stating he wishes "to complain formally about the incompleteness of this response..."
 6. On 14 August 2023 the Council asked the complainant for clarification on whether he wishes to make a complaint about how his request had been handled, or to make an appeal that not all of the requested information had been received. The Council referred him to the ICO if his complaint was concerning the Council's handling of his request.
 7. On the same day, the complainant confirmed he required responses to specific points relating to Stoneyhill, and set out each of his points.
 8. On 7 September 2023 the Council responded and maintained its original position. It said the exception still applies in relation to a number of further recent requests which the complainant submitted on the subject of Stoneyhill.
 9. Further to his complaint to the Commissioner, he confirmed that he is seeking information to his request to the Council of 14 July 2023. However, the complainant stated to "knock out point 2" of the request as he had the information to this, but would like information to points 1, 3 and 4 of the request.

Reasons for decision

10. This reasoning covers why the Council was entitled to rely on regulation 12(4)(b) of the EIR to refuse to comply with the request.

Regulation 12(4)(b) – manifestly unreasonable requests

11. Regulation 12(4)(b) of the EIR states that a public authority may refuse to disclose information to the extent that the request for information is manifestly unreasonable.
12. The Commissioner considers that the term “manifestly” means that there must be an obvious or clear quality to the identified unreasonableness.
13. The information in this case relates to Stoneyhill landfill site, and concerns regarding chemicals and contaminants within the landfill. The Council’s actions in this respect would have an effect on the environment. The Commissioner, therefore, agrees the requested information is environmental and the Council was correct to handle the request under the EIR.

The complainant’s position

14. The Commissioner notes the complainant’s interest in the release of “scientific data about tests carried out to determine the composition of the ‘elevated leachate’ at and below Stoneyhill Monsanto toxic waste dump site.” The complainant said he considers the information on the Council’s website to be misleading, as it states that “the Monsanto chemicals are ‘not toxic’...”. He also believes there is a pattern of the Council not wanting to release scientific data, which he thinks may undermine the Council’s claim that there is not a problem at Stoneyhill toxic waste site.
15. The complainant strongly believes it is in the public interest for the information (scientific data about the tests carried out) to be released. He considers this to be important for the future environmental and public health. Also, there are very serious matters which he believes are being concealed by the Council. The complainant informed the Commissioner about the Severn Trent situation “testing on chemicals on site...” and he expressed his concerns to the Commissioner about the chemical dumpsite. The complainant emphasised his belief that there is information held evidencing “toxic” materials that have been placed within the landfill in question.

The Council’s position

16. The Council is of the view that complying with these information requests would cause a disproportionate and unjustified level of disruption to the Council. It said that the impact of complying with the request would be unjustified in relation to the requests themselves and their inherent purpose or value.

17. The Council calculated that it received approximately 2,750 emails from the complainant during January 2022 and September 2023 on the same subject matter. The Council said a number of separate council officers/teams were included into the emails which the complainant had sent. The time taken in handling the correspondence, the Council added, results in officers/teams having reduced capacity to undertake other critical work that benefits the community.
18. The Council reported that there had been a significant number of contacts made to them relating to Stoneyhill. It said the complainant had contacted various members of the FOI Team, officers in Engineering and Projects, the Customer Relationship Team and Chief Executive on the subject of Stoneyhill. The Council considers this to be a scattergun approach to cause disturbance. Making a large volume of requests and submitting them to several departments, and the lengthy telephone calls, the Council believes is a deliberate intention to cause annoyance.
19. The Council believes the complainant is searching for pre-determined answers in response to his requests. It said the complainant will continue to correspond with the Council on this matter until he obtains these answers. It also believes the complainant will "continue to burden the Council until he receives the information he wants rather than what information the Council actually holds."
20. In its submissions to the Commissioner, the Council explained why it considers the requests a burden on the Council. It said, although the number of requests are not significantly excessive, they are repetitive and the follow-up correspondence for each request is considerable. The Council referred the Commissioner to a specific request from the complainant, where it had received 11 items of correspondence by email along with telephone calls. In addition to this, the complainant would add items to his requests or prompted further queries that would be indexed against his initial request. The Council reported numerous items of lengthy correspondence which would be submitted by the complainant along with each information request.
21. The Council stated it had responded in full to all of the complainant's previous requests, and facilitated a visit by the complainant to council offices to view requested documentation. A number of representations to either the Council's Planning Team and/or its Chief Executive were also made by the complainant.
22. The Council reported receiving from the complainant, a number of long telephone calls and emails relating to Stoneyhill, sometimes within only a few days of each other. The complaint's comments and associated requests, the Council added, were often repeated or very similar in nature/subject matter.

23. During investigating and responding to these requests, the Council said the aggregated time spent by a number of council teams is considerable and disproportionate. The Council further explained that the significant time spent dealing with the complainant's correspondence is affecting certain teams' ability to deliver engineering related projects to improve the boroughs infrastructure.
24. The complainant continues to submit similar requests regarding Stoneyhill, the Council said this is taking a significant amount of the Council's time on matters that it had already fully responded to. The Council stated the complainant refuses to accept that it provided him with all the recorded information it has which is relevant to his request.
25. The Council is of the view the complainant is using information rights legislation to further his environmental concerns. It said there is a more appropriate and established channel for the complainant to make these representations which is to the Environment Agency, and the Council informed the complainant of this.
26. The Council argued that responding to the complainant's requests is not an effective use of tax payers' money, and that it has to consider using limited public funds in the most efficient manner.

The Commissioner's decision

27. The Commissioner considered the arguments by both the complainant and the Council. He acknowledges the complainant's interest on the Stoneyhill site and understands his concerns about it. The Commissioner also recognises that the Council has tried to be transparent in publicising information regarding Stoneyhill landfill site on its website. He notes the Council's prepared FAQs section, and its online form which can be completed should the public require further information concerning Stoneyhill landfill site, or wish to submit feedback.
28. The Commissioner also notes the Council responded fully to the complainant's previous requests, and assisted the complainant by arranging him to visit the council offices in order to view requested documentation. The Commissioner is aware of the Council's numerous responses to the complainant's concerns and although the Council had addressed these with the complainant, it did not reduce the amount of correspondence received. The seven information requests to the Council within one month (July 2023) and within nine days, is a considerable amount, and some of which repeated earlier requests. The Commissioner was informed by the Council of its receipt of 22 requests from the complainant relating to Stoneyhill since October 2008, and of the 17 responses about Stoneyhill which the Council provided to the complainant since June 2009.

29. Taking into account the collection of correspondence from the complainant (relating to the same subject), the Commissioner accepts this would create an additional amount of work and would have a detrimental impact on Council officers being able to undertake their core functions.
30. The Commissioner also acknowledges that responding to all the complainant's concerns and addressing the queries he raised, generates further questions and accusations from the complainant.
31. The Commissioner is satisfied that the exception at regulation 12(4)(b) is engaged and will go on to consider the public interest test required at regulation 12(1)(b) of the EIR.

Public interest test

32. The test is whether, in all the circumstances of the case, the public interest in maintaining the exception outweighs the public interest in disclosing the information.
33. There will always be some public interest in disclosure to promote transparency and accountability of public authorities, greater public awareness and understanding of environmental matters.
34. The Council acknowledged the arguments in favour of disclosing the information and those in favour of maintaining the exception. However, the Council considers complying with the request would place an undue burden on the Council's limited resources. It highlighted the fact there is already information available (on its website) to those that may have an interest in the subject matter. The Council also referred to its prepared FAQ section in relation to Stoneyhill.
35. With regard to the complainant's issues with Stoneyhill, the Council argued that there is no wider public interest shown. It appears to be, the Council said, the issues raised by the complainant are solely his concern. The Council therefore believes that on balance, the public interest in maintaining the exception outweighs that in disclosing the withheld information.

Conclusion

36. Taking into consideration the significant burden that responding would place on the Council, the Commissioner's view is the balance of the public interests favours the maintenance of the exception. The Commissioner's decision, whilst informed by the presumption provided for in regulation 12(2) is that regulation 12(4)(b) of the EIR was applied correctly.

Right of appeal

37. 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

38. 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.
39. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Joanna Marshall
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