

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 12 March 2024

Public Authority: Carmarthenshire County Council
Address: County Hall
Carmarthen
SA31 1JP

Decision (including any steps ordered)

1. The complainant requested information from Carmarthenshire County Council (the Council) relating to the Wales Pension Partnership's (WPP) investment in Bute Energy.
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 as a result of this decision.

Request and response

4. On 10 October 2023, the complainant wrote to the Council highlighting part two of a previous request in the following terms:

“One question about

2. I assume WPP carried out due diligence and a risk assessment before investing in Bute Energy. Who carried out these activities and can you provide details of such reports.

WPP evaluated Capital Dynamics in their remit as an investment manager for this renewables infrastructure project. Capital Dynamics are responsible for due diligence and a risk assessment of Bute energy as the developer.

How do I get copies of the due diligence and risk assessment made by Capital Dynamics? Surely, they provide the information to WPP ? If not, can I get a copy via this FOIR?”

5. The Council responded on the same day and stated:

“The WPP don't have copies of these documents as it wasn't Capital Dynamics's responsibility / remit, therefore to obtain this information you would need to direct your request to them.”

Reasons for decision

6. This reasoning covers whether the Council is correct when it says that it does not hold information within scope of the request.

The complainant's position

7. The complainant considers the Council to hold information within scope of their request.
8. The complainant said that: “My argument is they provided advice to a public body and therefore such information should be available to the public especially members of the scheme, which I am.”

The Council's position

9. In its submissions to the Commissioner, the Council maintained its position that it does not hold any information within scope of the request. It stated that searches were carried out at the time of the

request using relevant terms such as "Capital Dynamics" and "Bute Energy."

10. The Council explained that it has conducted searches of the Council File Plan for meeting papers. Any relevant information held would be confined to records relating to these companies.
11. The Council also explained that: "Upon receiving the request, the relevant officers were consulted (the Council's Treasury and Pensions Investment Manager and lead for the Wales Pension Partnership). The information requested concerned the work of a particular service area, which does not have a large cohort of staff. It was therefore possible to contain the handling of a request within a small team and focus searches as above."

The Commissioner's position

12. The Commissioner notes that the complainant considers the Council to hold information within scope of the request as they believe the information should have been communicated to the Council. However, the Commissioner is satisfied that the Council has carried out reasonable searches for information within scope of the request. He also considers that when conducting its searches, the Council used appropriate and relevant search terms.
13. Furthermore, the Commissioner notes that the Council stated that: "The relevant officers are certain that no paper records are held and there were no staff consultations."
14. The Commissioner also asked the Council to confirm if the requested information may be held by a third party (Capital Dynamics) on its behalf, and therefore, held for the purposes of FOIA by the private company. The Council confirmed information in scope of the request was not held by a third party on behalf of WPP and therefore the Council.
15. The Commissioner's decision is that on the balance of probabilities, the Council does not hold the information within scope of the request. Therefore, it has complied with section 1 of FOIA.

Right of appeal

16. 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

17. 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.
18. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

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