

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

Date: 18 September 2024

Public Authority: Suffolk County Council
Address: Endeavour House
8 Russell Road
Ipswich
Suffolk IP1 2BX

Decision (including any steps ordered)

1. The complainant has requested the recorded cause of a fire that occurred in a particular location. Suffolk County Council (the council) refused to provide the requested information, citing section 21 of FOIA – information accessible to the applicant by other means. During the course of the Commissioner’s investigation, the council disclosed the information but the complainant did not accept that all the information falling within scope had been disclosed.
2. The Commissioner’s decision is that the requested information falls under the EIR and that, on the balance of probability, there is no further information held by the council.
3. The Commissioner does not require further steps.

Request and response

4. On 29 February 2024 the complainant wrote to the council and made a request for information under FOIA in the following terms:

"Please provide the recorded cause of the fire that occurred at [redacted location]"

5. The council responded on the same date – "Fire reports are a chargeable service by Suffolk Fire and Rescue Service (SFRS), the cost of a fire report is £70. Please see the following page on the Suffolk County Council's website: special-service-scale-of-charges2023.docx (live.com) Please send fire report requests to fire.businesssupport@suffolk.gov.uk and SFRS will be able to action this."

The Commissioner notes that SFRS are the same public authority as the council.

6. Subsequently the complainant made an internal review request, stating that they only wanted to know the cause of the fire and did not require the full report.
7. The council provided its internal review on 24 April 2024 and maintained its position. The review explained "that the cause of a fire is only available through the fire incident report" and explained that the report was being withheld under section 21 of FOIA and provided a link. The council also cited section 40 of FOIA to some of the requested information in the report.

Scope of the case

8. The complainant contacted the Commissioner on 16 May 2024 to complain about the way their request for information had been handled. The complainant queried why they had to pay £70 for a full fire report when they had only requested the "cause". They also queried the use of section 40 of FOIA when they had not asked for any personal information. Additionally, the complainant was unhappy with the length of time taken to respond to the request and the internal review but this related to an earlier request.
9. During the Commissioner's investigation, he spoke to the council on 23 August 2024, pointing out that the Commissioner's guidance on section 21 of FOIA states the following -

"Even though you have published a schedule of charges, you should avoid taking a blanket approach to the charging of fees. For example, if the applicant has asked for a very specific and limited piece of information contained in a broader commercial publication you produced, you should provide the information under section 1.

You should not expect the applicant to buy a copy of the whole publication as advertised in your scheme.”¹

10. The council accepted this view and agreed to provide the limited amount of information requested. It did so on 27 August 2024 and copied the Commissioner in:

“The cause of the fire is recorded as accidental.

Due to the cause being accidental Suffolk Fire and Rescue Services (SFRS) do not hold further information or details on the cause of the fire...”

11. The complainant was not content with this response, arguing as follows:

“I do not think that "accidental" is a cause. Also I was enquiring as to whether or not £70.00 was an extortionate fee for a report on what was essentially a small fire, [redacted personal data].”

The complainant raised issues about the cost of the report but the Commissioner explained that he could not look at the specific amount of fee charged, though he explained that the Commissioner’s guidance said that public authorities should balance the level of charges with facilitating access to the public.

12. The Commissioner considers that the scope of his investigation is to consider whether the complainant has received all the information falling within the scope of their request.

Reasons for decision

Is the requested information environmental?

13. Regulation 2(1) of the EIR defines environmental information as being information on:

- (a) the state of the elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites including wetlands, coastal and marine areas, biological diversity and its components, including genetically modified organisms, and the interaction among these elements;
-

¹ [Information accessible to the applicant by other means \(section 21\) | ICO](#)

- (b) factors, such as substances, energy, noise, radiation or waste, including radioactive waste, emissions, discharges and other releases into the environment, affecting or likely to affect the elements of the environment referred to in (a);
 - (c) measures (including administrative measures), such as policies, legislation, plans, programmes, environmental agreements, and activities affecting or likely to affect the elements and factors referred to in (a)...as well as measures or activities designed to protect those elements;
 - (d) reports on the implementation of environmental legislation;
 - (e) cost-benefit and other economic analyses and assumptions used within the framework of the measures and activities referred to in (c); and
 - (f) the state of human health and safety, including the contamination of the food chain, where relevant, conditions of human life, cultural sites and built structures inasmuch as they are or may be affected by the state of the elements of the environment referred to in (a) or, through those elements, by any of the matters referred to in (b) and (c);
14. The Commissioner is therefore satisfied that the information falls within the definition of environmental information for the purposes of the EIR under Regulations 2(1)(a), 2(1)(b) and Regulation 2(1)(f).

Regulation 5(1) duty to make environmental information available on request

15. Under Regulation 5(1) of the EIR, a public authority must make environmental information available on request if it holds the information and it is not subject to an exception.
16. Where there is a dispute between a public authority and a complainant as to whether all requested information falling within the scope of a request has been provided to the complainant, the Commissioner, following the lead of a number of First-tier Tribunal decisions, must decide the matter based on the civil standard of the balance of probabilities.
17. Firstly, it would appear that the complainant had made an earlier request for the report but the Commissioner is not considering that here. The Commissioner is only looking at the narrower request for the "cause" of the fire and whether any further information is held.

18. The council has provided the Commissioner with the report of the fire. He is unable to disclose this information, which is limited, but, having seen the more detailed record of the fire, he accepts that there is no further information regarding the "cause" of the fire. Having consulted with SFRS, the council confirmed that it held no further information, having interrogated its system and produced the report. The fire had been established as "accidental". SFRS "explained that it is not standard practice to carry out an investigation if a fire is accidental and no suspicious circumstances are identified". This was the case here. It does not "hold information on the specific cause of the fire but can confirm that it was accidental and non-suspicious".
19. Whilst the Commissioner understands the complainant's view that "accidental" is not the "recorded cause" of a fire, it is how the fire has been classified. The Commissioner has confirmed with the council that this classification is recorded on the incident recording system. The specific cause has not been established, other than by this generic term. However, the Commissioner is satisfied that the council holds no further information falling within the scope of the request concerning the "recorded cause" of the fire.

Right of appeal

20. 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

21. 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.
22. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

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