

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

### **Decision notice**

**Date:** 17 December 2024

**Public Authority:** Great Wakering Parish Council  
**Address:** Council Offices  
Little Wakering Hall Lane  
Great Wakering  
Essex  
SS3 0HH

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

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1. The complainant requested information about any contact that Great Wakering Parish Council (the Council) had had with its insurers in connection with bonfires on allotments. The Council provided a copy of a risk assessment and stated that it did not hold any other information falling within the scope of the request. The Commissioner's decision is that, on the balance of probabilities, the Council does not hold any additional information relevant to the request. The Commissioner does not require any steps to be taken.

#### **Request and response**

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2. On 15 April 2024 the complainant wrote to the Council and requested information in the following terms:  
  
"Anything that has been recorded or received as a result of contacting the Parish Council's insurers in connection with bonfires being lit on the parish Council's allotments".
3. The Council responded on 13 May 2024 and provided a copy of a risk assessment in relation to allotment fires.

4. On 20 May 2024 the complainant requested an internal review of the handling of their request. They pointed out that the request incorporated “any information recorded or received” as a result of contact the Council has had with its insurers regarding allotment bonfires, for example, a written acknowledge of changes of amendments to the insurance policy.
5. The Council provided the outcome of its internal review on 7 June 2024 and stated that it did not hold any further recorded information relevant to the request.

### **Scope of the case**

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6. The complainant contacted the Commissioner on 3 July 2024 to complain about the way their request for information had been handled.
7. The scope of the Commissioner’s investigation into this complaint is to determine whether the Council holds any further recorded information falling within the scope of the request.

### **Reasons for decision**

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#### **Regulation 5(1) – Duty to make environmental information available on request**

8. Regulation 5(1) states that a public authority that holds environmental information shall make it available on request.
9. In cases such as this where there is some dispute as to whether information falling within the scope of the request is held, the Commissioner, following the lead of a number of Information Tribunal decisions, applies the civil standard of the balance of probabilities.
10. In other words, in order to determine such complaints the Commissioner must decide whether on the balance of probabilities a public authority holds any information which falls within the scope of the request.
11. In applying this test the Commissioner will consider the results of the searches undertaken by the public authority and/or other explanations offered as to why the information is not held.

#### **The Council’s position**

12. The Council advised the Commissioner that information relevant to the request could be held electronically or in hard copy format. It advised that its Clerk and their assistant are long standing officers and are fully

aware of any information held with regard to allotments and correspondence with the Council's insurers.

13. The Council advised the Commissioner that, on receipt of the request, searches were undertaken of information held both electronically and in hard copy format to identify relevant information. This included minutes, agendas, emails and other correspondence as well as information in the recycling bin. The Council confirmed that it does not record phone calls and does not have any social media accounts. The keywords that were used for electronic searches included 'allotment', 'bonfire', 'lit', 'light', 'lighting', 'insurance', 'insurers' the name of the insurance company and the insurance broker and 'risk assessment'. The Council confirmed that the searches carried out encompassed information held on all computers.
14. The Council explained that it has a retention policy in terms of information held manually and electronically, and information held is therefore subject to routine destruction and deletion. However, it confirmed "that no recorded information of this type has been deliberately deleted after receiving the complainant's FOI request".
15. The Council explained that other than the risk assessment, a copy of which has been provided to the complainant, no further recorded information is held. This is because all other contact with its insurers regarding the subject matter has been undertaken verbally, by telephone, and telephone calls are not recorded.
16. The complainant has expressed concern that no written exchanges were made between the Council and its insurers. They referred to the minutes of the Council meeting on 31 January 2024, point 8 which stated that:

"Resolved that burning be allowed from October to March subject to Clerk preparing a risk assessment and only after obtaining insurer's agreement to content".

The complainant also considers that, in their experience:

"if you ask for a specific item, such as bonfires to be included or a risk assessment approved, you will always receive a written acknowledgement of the changes or amendments to the policy".

17. The Commissioner specifically raised the above points with the Council who explained that "no changes of amendments were required to the policy wording". The Council confirmed that a copy of its insurance policy for the allotments had already been provided to the complainant in response to an earlier request for information. As such they would be able to verify that no changes were made to the policy. However, the Council acknowledged that the minutes of the meeting on 31 January

2024 could have been worded slightly better, inasmuch as the minutes should have confirmed that the risk assessment itself did not require approval from its insurers and much of its content was agreed verbally.

**The Commissioner's position**

18. The Commissioner finds the representations provided by the Council, as set out above, sufficiently explains why it does not hold any further recorded information falling within the scope of the request.
19. Based on the evidence available to him, and in particular the searches undertaken and the other explanations provided by the Council as set out above, the Commissioner finds that, on the civil standard of the balance of probabilities, the Council does not hold any further recorded information relevant to the request.

## Right of appeal

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

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

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