

Environment Information Regulations 2004

Your request for environmental information has now been considered and the Council's response to your questions is shown below.

You asked:

I would be obliged for your assistance under the EIR. Please note I have no interest in my request being dealt with under the FOI.

Could you please advise me of all occasions since 2005 when the Council has obtained external legal advice but failed to act in accordance therewith. For each occasion (if any)

- 1 Please detail the source and date of the external legal advice and the fees(if any) the Council paid and when
2. Which officer or elected member(s) made the decision, and when, to act contrary thereto and the basis why the Council considered injustice had not been occasioned.
3. Whether the Council has "gone public" on its failure to follow legal advice
- 4 Whether the council has notified the "victim" that it was acting contrary to external legal advice.
- 5 The financial benefit the Council obtained or saved (if any) as a result of not following the external legal advice.

Leicester City Council does not believe, as far as it is able to determine, that there have been any occasions when we failed to act in accordance with legal advice obtained regarding the environment.

However, to search all of our files to determine if any such information exists is exempt from release. This is therefore a refusal notice under the Environmental Information Regulations Act 2004.

Regulation 12 (4) (b) of EIR (Manifestly unreasonable) applies. In order to answer the request it would be necessary to access the electronic version of each of the 736 files and review the contents. This would ascertain whether the advice and subsequent actions both related to the environment and whether officers failed to act in accordance with the advice. An estimate of the average time required to check each file is 15 minutes, which is a total of over 184 hours.

I have considered if it is in the public interest to spend this amount of time on the request. Information that is of "Public Interest" means that it is something which serves the interests of the public at large, not something that might merely be interesting. I do not believe that there is a strong enough argument for the Council to spend 184 hours looking for the information requested when there is no clear evidence of there being any great public interest in the information held. Only one request for this information has ever been submitted to the Council in the last 7 years.

At a time of limited resources, to take staff away from their regular jobs to look up this information does not serve the public interest at large; although I appreciate it is of interest to you. The burden on the public authority's workload would be disproportionate and is an unreasonable diversion of resources at this time of austerity. This would impact on the day to day working of administration staff in particular in the Legal Services team for five weeks.

Regulation 12(4)(c) also applies as the request is still too general. Although the request is broken down into a number of items overall it is too general in manner. Even if you were more specific, this would be unlikely to change the fact that all 736 files would still need to be searched to obtain information of any value or use to you.

Regulation 12(5)(b) also applies. Information may be excepted from disclosure where disclosure would adversely affect the 'course of justice'. Releasing the information could provide information that would breach legal professional privilege. Once information from the files is extracted it is very likely that legal professional privilege will apply to some of the information by its very nature of being in the file as they are Legal Services files. The ICO place great weight on the importance of client confidentiality and that relationship between solicitor and client, and it is very rare for the public interest for release to outweigh that.

I am sorry that this response will be disappointing, but I hope I have explained why I believe the exceptions above apply, and why I do not believe it to be in the public interest to retrieve and publish all of this information.

The legislation allows you to use the information supplied for your own personal use. Please be aware that any commercial or other use, for example publication, sale, or redistribution may be a breach of copyright under the Copyright, Designs and Patents Act 1988 as amended unless you obtain the copyright holder's prior permission.

Not all the information that is supplied which is covered by copyright will be the Council's copyright, for example it may be the copyright of a government department or another Council. You should seek either the Council's consent or their consent as appropriate. The Council is willing to advise you of any such potential issues on request. In order to make a request to re-use the information please contact the Information Governance Manager using the details below.

If you are dissatisfied with the handling of your request please write to:

Information Governance Manager
Information and Support
Leicester City Council
FREEPOST (LE985/33)
New Walk Centre
LEICESTER LE1 6ZG

e-mail: FOIA@leicester.gov.uk

Your request for internal review should be submitted to the above address within 40 (forty) working days of receipt by you of this response. Any such request received after this time will only be considered at the Council's absolute discretion.

You can also complain to the Information Commissioner at:

Information Commissioner's Office

Wycliffe House

Water Lane

Wilmslow SK9 5AF

Telephone: 01625 545 700

www.informationcommissioner.gov.uk

Please be aware that the Information Commissioner does not normally consider appeals or complaints until the internal appeals and complaints processes of the public authority which is answering the request have been exhausted. You are therefore advised to complain or appeal to the Information Governance Manager before contacting the Commissioner.

Yours sincerely

Lynn Wyeth

Information Governance Manager