

Freedom of Information Act 2000 (Section 50)

Decision Notice

Date: 25 August 2011

Public Authority: Denbighshire County Council
Address: County Hall
Wynnstay Road
Ruthin
LL15 1YN

Summary

The complainant requested information about the North Hoyle Offshore Wind Farm Community Benefit Fund. The public authority originally stated that it did not hold the requested information but refused to comply with the request on the basis that it was vexatious and repeated. At the internal review stage the public authority stated that it did not hold the requested information but maintained the requested was vexatious and repeated. During the course of the Commissioner's investigation the public authority withdrew its reliance on section 14(1) and 14(2) of the Act and said that it did not hold the requested information. The Commissioner considered on balance of probabilities whether the information requested was held by the public authority and determined that it was not.

The Commissioner's Role

1. The Commissioner's duty is to decide whether a request for information made to a public authority has been dealt with in accordance with the requirements of Part 1 of the Freedom of Information Act 2000 (the "Act"). This Notice sets out his decision.

Background

2. North Hoyle is the UK's first major offshore wind farm¹, located 4-5 miles off the North Wales coasts between Rhyl and Prestatyn. Built in

¹ <http://www.rwe.com/web/cms/en/311612/rwe-npower-renewables/sites/projects-in-operation/wind/north-hoyle-offshore-wind-farm/summary/>

2003, the project comprises 30 wind turbines, each rated at 2 megawatts. At the time of installation it was the most powerful wind farm in the UK, producing sufficient electricity annually to power 50,000 homes. North Hoyle was developed, built and is operated by RWE npower renewables (formerly National Wind Power).

3. In association with the North Hoyle Offshore Wind Farm, a community fund was set up by RWE npower renewables to assist local community projects in the Rhyl, Prestatyn and Meliden areas. The North Hoyle Offshore Wind Farm Community Fund is administered by the Denbighshire Coastal Partnership, a trust registered with the charity commission (registration number 1123433). All applications are received and considered locally. For the Rhyl area these are considered by the Rhyl Community Partnership. The Prestatyn and Meliden areas are considered by the Prestatyn and Meliden Community Partnership. Each Community Partnership is a fully constituted group and is made up of local volunteers, representing the town council, voluntary sector, local business community, residents associations and police. Each year the fund is split equally between the two community partnerships.

The Request

4. On 6 January 2010, the complainant submitted the following request to Denbighshire County Council (the "Council"):

"Please may I under the Freedom of Information. Request full and comprehensive detail for the North Hoyle Offshore Wind Farm Community Benefit Fund?

To cover the points below but not to be limited by them.

1) First may I confirm DENBIGHSHIRE COASTAL PARTNERSHIP (registered charity 1123433) is responsible for running the £145,186 (up to 31st December 2008)?

2) Could [named individuals] be confirmed as the current trustees of DENBIGHSHIRE COASTAL PARTNERSHIP?

3) I note income is £145,186 (up to 31st December 2008). Yet spending is £114,569 (up to December 2008). Could the differential of £30,617 be explained please?

4) Full and comprehensive detail of £114,569 spending?

4a) To cover actual grants and money given?

4b) To whom and for what purpose?

4c) How was grant/money monitored as being fit for original purpose?

If above could be supplied as a simple PDF/electronic attachment. Would suffice.

Simply put I wish to know full and comprehensive details of DENBIGHSHIRE COASTAL PARTNERSHIP (registered charity 1123433) and trustees [named individuals] administering of the £145,186.

To avoid expense and for speed of reply. Email and PDF documentation would be acceptable and preferred. Thank you.

Please let me know if my question needs clarifying to avoid further questions that might arise due to ambiguous answers. I'll be happy to resupply in a format that will let you either supply photocopy/PDF information (dependent on quantity) or supply information without the need to edit any answers you feel I have not asked. Or brief answers that could arise to second and third questions."

5. The Council responded on 20 January 2010. It stated that the Council held the requested information but it considered the complainant to be "a vexatious and repeated requester" and that it would not be responding to any of his information requests until further notice.
6. On 20 February 2010, the complainant asked the Council to review its handling of his request. In particular he questioned the Council's application of section 14(1) and 14(2) of the Act.
7. The Council responded on 24 February 2010. It stated that it considered its application of section 14(1) and 14(2) of the Act to have been appropriate but that on further investigation it did not hold the requested information. The Council advised the complainant to redirect his request to the Charity Commission.

The Investigation

Scope of the case

8. The complainant first contacted the Commissioner regarding this matter on 4 February 2010. He asked for guidance on the application of section 14(1) of the Act. There followed correspondence between the complainant and the Commissioner during which it became apparent

that the complainant wanted to make a complaint about the Council's handling of his request.

9. The Commissioner has considered whether the Council appropriately applied the Act. Given that the Council notified the Commissioner that it is no longer relying on section 14(1) and 14(2) of the Act, the Commissioner has focused on whether it was correct to say that it did not hold the requested information.

Chronology

10. The Commissioner wrote to the complainant on 6 June 2011 to clarify the scope of his investigation and to the Council on the same date to ask for further information that would allow him to reach a decision in this matter.
11. The Council responded on 4 July 2011 and clarified that it did not hold the requested information. The Commissioner spoke to the Council on 12 July 2011 to clarify its position.

Analysis

Substantive Procedural Matters

12. The normal standard of proof to apply in determining whether a public authority does hold any requested information is the civil standard of the balance of probabilities.
13. In deciding where the balance lies, the Commissioner will consider the scope, quality, thoroughness and results of the searches carried out by the public authority, as well as considering, where appropriate, any other reasons offered by the public authority to explain why the information is not held. The Commissioner will also consider any evidence that further information is held.
14. Although the Council's initial response to the request was that it did hold the requested information, it altered its position at the internal review stage. The Council informed the Commissioner that it had consulted the relevant contacts within the departments that it considered likely to hold any relevant information and found that the Council plays no part in the administration of the fund in question and does not receive any money from it. The Council clarified that it consulted with Information Officers (individuals with delegated responsibility for answering information requests) within its Environmental Directorate and Legal Department.

15. While the Council has not provided the Commissioner with any great detail about the searches it conducted to try to locate information relevant to the request, he has been guided in his decision in this case by information that is in the public domain.
16. Paragraphs 2 and 3, above provide background information about the fund and the Charity Commission's website contains further information about the community fund in question and the administering body, the Denbighshire Coastal Partnership². The information available through the Charity Commission's website includes details of the partnerships trustees, its framework and its accounts for the years ending 31 December 2008 and 31 December 2009.
17. None of the available information includes any indication that the Council has any involvement in administering the fund and it is clear that this function is performed by the Denbighshire Coastal Partnership. Neither is there any indication that the Council received any funds from the community fund.
18. Taking into account the available information on this matter, the Commissioner's view is that the Council's explanation of why it does not hold the requested information is reasonable in the circumstances. He therefore finds that, on the balance of probabilities, the Council does not hold the requested information.

The Decision

19. The Commissioner's decision is that the public authority dealt with the request for information in accordance with the Act.

Steps Required

20. The Commissioner requires no steps to be taken.

² <http://www.charity-commission.gov.uk/Showcharity/RegisterOfCharities/CharityWithoutPartB.aspx?RegisteredCharityNumber=1123433&SubsidiaryNumber=0>

Right of Appeal

21. 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,
Arnhem House,
31, Waterloo Way,
LEICESTER,
LE1 8DJ

Tel: 0300 1234504

Fax: 0116 249 4253

Email: informationtribunal@tribunals.gsi.gov.uk.

Website: www.informationtribunal.gov.uk

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

Dated the 25th day of August 2011

Signed

**Anne Jones
Assistant Commissioner
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF**

Legal Annex

General Right of Access

Section 1(1) provides that -

"Any person making a request for information to a public authority is entitled –

- (a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and
- (b) if that is the case, to have that information communicated to him."