



Derry City & Strabane
District Council
Comhairle
Chathair Dhoire &
Cheantar an tSratha Báin
Derry Cittie & Stràbane
Deistrick Cooncil

Ref: EIR / 999

13 January 2017

Mr
22 Oxford Street
Margate
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Email: @gmail.com

Dear Mr

Environmental Information Regulations 2004 Request Pub complaints

I refer to your EIR request as above and can advise for Q1 and Q2, Council apply the exception at 12(5)(b) of the Environmental Information Regulations 2004. This exception states that:

“For the purposes of paragraph 1(a), a public authority may refuse to disclose information to the extent that its disclosure would adversely affect:-

- (b) That the course of justice, the ability of a person to receive a fair trial, or the ability of a public authority to conduct an enquiry about criminal or disciplinary nature.

The Information Commissioners Office, which is the body responsible for regulating the Environmental Information Regulations, has issued guidance in relation to the course of justice and enquiries exception (Regulation 12(5)(b)). The guidance notes that the exception in regulation 12(5)(b) is broad in coverage and, in particular, that the course of justice element of the exception is very wide in coverage. The Information Tribunal has commented that “The course of justice does not refer to a specific course of action but is a more generic concept somewhat akin to the smooth running of the wheels of justice”. (Rudd v The Information Commissioner and the Verderers of the New Forest (EA/2008/0020, 28th September 2008))

In the Guidance the Information Commissioners Office comments that the principle of an adverse effect on the course of justice is wide enough to cover any adverse effect on law

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Mr

enforcement and investigations and proceedings. Thus the exception covers the ability of a public authority to conduct an enquiry of a criminal or disciplinary nature.

Where a local authority such as Derry City and Strabane District Council is minded to apply the exception under 12(5)(b) it must apply the public interest test i.e., it must decide whether the public interest in disclosing the information outweighs the public interest in maintaining the exception. The Information Commissioners Office notes that the public interest favouring maintenance of this exception in these cases is in not prejudicing investigations, proceedings and enquiries. The public authority should consider the timing of the request for information, whether there is a need to protect information acquired during investigations, especially when an investigation is still open, the stage reached in the investigation, the extent the information has already been released into the public domain, the significance or sensitivity of the information, and the age of the information.

Having considered these matters I am content that, as there is an act of enforcement investigation ongoing, the public interest in withholding the information outweighs the public interest in disclosing the information at the present time.

I can advise therefore the following pubs received the most complaints against them during 2016 (January 1st - present)

- 1 – premises subject to legal proceedings.
- 2 – premises subject to investigation.
- 3- Carraig Bar – (1 complaint)

If you are dissatisfied with our response you have rights of review and appeal; these rights consist of two review processes. Firstly our internal review procedure is available by contacting:

John Kelpie
Chief Executive
Derry City and Strabane District Council
98 Strand Road
Derry BT48 7NN Tel 028 71253253 or email john.kelpie@derrystrabane.com

Secondly, you can appeal directly by contacting the Information Commissioner at:

Information Commissioner
Wycliffe House
Water Lane
Wilmslow
CHESHIRE SK9 5AF Tel: 0303 123 1113 (local rate) or email: casework@ico.org.uk

Yours sincerely

Head of Health & Community Wellbeing