

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 10 June 2024

Public Authority: Swansea Council

Address: Civic Centre
Oystermouth Road
Swansea
SA1 3SN

Request:

The complainant requested the following information from Swansea Council on 13 December 2023:

"Funding

Please provide the following detail or information:

- Confirmation as to the exact amount of funding that the Council has or intends to provide to Skyline, including the nature of such funding (e.g. repayable loan, non-repayable grant etc.)
- Provide copies of the funding agreements in place with Skyline (or, in the absence of any agreements, the offers made)
- Details of the decision made to increase funding from £430,000 to £8million

Property transactions

Please provide a copy of any lease for the land and/or any development and/or operating agreements (whether entered into or proposed).

In the absence of a procurement exercise, it is our view that the provision of financial aid to Skyline only is likely to amount to an unlawful subsidy on the basis that it is public resources given by a public authority which

confers an economic advantage on Skyline only which has, or is capable of having, an effect on competition or investment (including upon Zip World).

I would therefore invite the Council to provide details (not mere confirmation) as to how the support provided or to be provided to Skyline does not amount to an unlawful subsidy and/or whether the funding has been notified to the Subsidy Advice Unit. In particular, please confirm the following:

- whether the funding is considered to be a "subsidy" as defined under the Subsidy Control Act 2022

- If so, whether the subsidy of funding given to Skyline complies with the Subsidy Control Act 2022 and is

consistent with the subsidy control principles set out in that Act

- If not, whether any other exemption was deemed to apply

- Whether the subsidy was subject to a subsidy scheme and, if so, details of that scheme including eligibility criteria and how the funding to Skyline satisfies all the criteria of that scheme

- If it is the case that the Council believe that any funding by way of loan has been made on a market economy operator principle, please provide details of the analysis undertaken as to how the funding satisfies that principle

- Whether such subsidy has been notified to the Subsidy Advice Unit"

Commissioner's Decision:

A public authority will breach regulation 5(2) of the EIR if it fails to respond to a request within 20 working days. Based on evidence available to the Commissioner, by the date of this notice the public authority has not issued a substantive response to this request. Therefore the Commissioner finds a breach of regulation 5(2).

Steps:

The public authority must provide a substantive response to the request in accordance with its obligations under the EIR.

The public authority must take this step within 30 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court

pursuant to section 54 of FOIA and may be dealt with as a contempt of court.

Right of Appeal:

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

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

**Information Commissioner
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF**