

**Is-adran Môr a Physgodfeydd /
Marine & Fisheries Division**



Llywodraeth Cymru
Welsh Government

19th December 2019

Dear ,

ATISN 12789 - REQUEST - ENVIRONMENTAL INFORMATION REGULATIONS 2004

Thank you for your request of 25 October 2018 requesting information relating to works by Anglesey County Council and/or its appointed contractors, including allegations and subsequent reporting by relevant authorities and/or agencies, of environmental and historic environment destruction at Aberlleiniog Beach, Anglesey.

In addition you wrote on 23 November to seek an internal review relating to our failure to comply with your request within the 20 working days specified by the Freedom of Information Act 200 and Environmental Information Regulations 2004.

Taking the internal review first, I uphold your complaint in that we failed to meet our obligations in regard to the time taken to comply with your request. As we explained in our acknowledgement letter to you of 23 November, as a result of your chasing up a response or acknowledgement to your request, we became aware on 22 November that your request and subsequent chase emails had been forwarded to the Freedom of Information mailbox for processing, but those emails had never been received by that mailbox. Our IT engineers are currently trying to identify the cause of this fault.

As to your request, I have decided that some of the information is exempt from disclosure under section 12(5)(b) of the Environmental Information Regulations 2004 and is therefore withheld. The reasons for applying these exemptions are set out in full in the Annex to this letter.

I can release a copy of the licence issued to the Isle of Anglesey County Council (IoACC). The background to the application and issuing of this licence is set out below.

At Aber Lleiniog Beach a small stream meets the sea. Over time, long shore drift of the beach sediment blocks and dams the stream resulting in the formation of a lagoon or pond upstream. During times of heavy rain and spring tides the water level rises in the pond and floods the nearby road.



**BUDDSODDWYR | INVESTORS
MEWN POBL | IN PEOPLE**

Is-adran Môr a Physgodfeydd/Marine & Fisheries Division
Llywodraeth Cymru / Welsh Government
Stena House
Station Approach
Caergybi/Holyhead
Ynys Môn/Anglesey
LL65 1DX

IoACC had a marine licence issued by Natural Resources Wales (NRW) to do necessary works in order to alleviate the risk of flooding. I enclose a copy of Marine Licence CRML1327 which is valid from 3rd December 2013 to 2nd December 2018. The work normally occurs in autumn each year and only takes 1 or 2 days to complete. IoACC employ contractors to unblock the stream and spread the sand and shingle they remove, over the lower beach. This year the contractors were Dawnus. In previous years there have been no complaints about the work done.

The work began on 15th October and soon after NRW received complaints from members of the public who forwarded them to the Welsh Government. The allegations made were that, apart from unblocking the mouth of the stream, the excavators had moved boulders on the beach and deposited them at the top of the shore. The boulders are a geological feature known as erratic's and were deposited in this location by the last ice age. The presence of the erratic's led to the site been designated a Special Site of Scientific Interest (SSSI), A Regionally important Geological Site (RIGS) and a recognised Unesco world heritage site.

If you are dissatisfied with the Welsh Government's handling of your request, you can ask for an internal review within 40 working days of the date of this response. Requests for an internal review should be addressed to the Welsh Government's Freedom of Information Officer at:

Information Rights Unit,
Welsh Government,
Cathays Park,
Cardiff,
CF10 3NQ

or Email: Freedom.ofinformation@gov.wales

Please remember to quote the ATISN reference number above.

You also have the right to complain to the Information Commissioner. The Information Commissioner can be contacted at:

Information Commissioner's Office,
Wycliffe House,
Water Lane,
Wilmslow,
Cheshire,
SK9 5AF.

However, please note that the Commissioner will not normally investigate a complaint until it has been through our own internal review process.

Yours sincerely

Annex

I have decided to withhold the following information:

Information being withheld	Section number and exemption name
Incident Reports	Reg 12(5)(b) "Disclosure would adversely affect 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 of a criminal or disciplinary nature".
Witness statements	Reg 12(5)(b) "Disclosure would adversely affect 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 of a criminal or disciplinary nature".
Photographs	Reg 12(5)(b) "Disclosure would adversely affect 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 of a criminal or disciplinary nature".
Expert Witness statements	Reg 12(5)(b) "Disclosure would adversely affect 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 of a criminal or disciplinary nature".

This Annex sets out the reasons for the engagement of section of the Reg 12(5)(b) of the Environmental Information Regulations 2004 and our subsequent consideration of the Public Interest Test.

The Welsh Government believes that the documents described above should be exempt from disclosure. The Welsh Government is the Enforcement Authority for marine licensing under Part 4 of The Marine and Coastal Access Act 2009. Within Part 4 of the Act, Section 85 (1) states: a person who fails to comply with any condition of a marine licence commits and offence. As a result of the allegations, Welsh Government is conducting an investigation into the allegations to ascertain whether any criminal offences have taken place and, if so, to identify those responsible.

The subsequent reporting, witness statements, photographs and expert witness statements all form part of the investigation. We are of the opinion that to disclose this information, at this point in time, would be likely to prejudice the ongoing investigation, as disclosure would adversely affect our ability to conclude our investigations and poses a real risk that it could jeopardise the ability to bring a fair trial. The result of that would be that no one would be brought to account in the Courts for any criminal activities that may have taken place.

Public Interest Test

Public interest arguments in favour of disclosure

As identified above, the presence of the erratics has led to the beach receiving a number of designations, both national and international. These designations place an obligation to ensure those relevant features are cared for. It is in the public interest that any allegations of

any activity that undermines those designations are fully investigated and anyone found to be responsible for the moving of the erratics are brought to account for their actions.

The local community care for this beach and it was the public who brought NRW's attention to the fact the erratics had been moved. There is a strong public interest in knowing that their complaints are being looked at and that the regulatory authorities are investigating those complaints fully. Disclosure would show the amount of work undertaken by the Welsh Government and others, to identify those responsible and to bring about a, hopefully, successful prosecution.

Public interest arguments in favour of withholding

We believe that the public interest is best served by us being able to bring about a successful prosecution for damage to this site. This requires that due process is followed to ensure that the matter is fully investigated, those responsible are charged and that those charged with an offence receive a fair trial. Disclosure of information that may prejudice that ability to allow a fair trial, resulting in the case being thrown out does not serve that wider public interest.