

Request

- Q1** Can you please provide the number of times the authority has refunded planning application fees to developers who had waited more than 26 weeks for a decision without other agreements or exemptions being put in place – as per the Government’s 2013 implementation of these rules.
- Q2** In a digital table format, such as excel or pdf, can you provide the total number of payments returned, and every instance between January 2013 and December 2023 of money being returned to developers, the date of the return and the amount of money returned (£).
- Q3** Can the authority also provide, for the same time period, the number of planning applications that have waited more than 26 weeks for a decision, without agreements in place.

Response

Q1 and Q2.

The Council's operating systems only hold details of payments made to applicants; it does not differentiate between refunds made under the Planning Guarantee and, for example, the return of a fee for an application that was withdrawn before being registered / made valid, an overpayment or a transfer of a planning fee. To determine the reason for the payment in each case it would be necessary to manually review all the documentation relating to each case for this period, which the Council's records indicate there are over 930 cases. The Council estimates (on average as there are significant differences in the amount of information to review depending on the type of planning application to which it relates) that it would take 10 minutes to review a case, therefore potentially giving a total of over 9300 minutes, i.e. approximately 155 hours, to comply with this request.

Information about planning applications is, in the majority of cases, environmental information as defined by the Environmental Information Regulations 2004 (EIR). Regulation 12(4)b of the EIR states that *a public authority may refuse to disclose information to the extent that ... (b) the request for information is manifestly unreasonable*; "Unreasonable" is not defined, but using the appropriate limit in The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 as a guideline, 18 hours to locate and extract the information is a good starting point for determining whether Regulation 12(4)b is engaged. The estimate above shows that it would be far in excess of 18 hours in this case. Whilst Regulation 9(1) of the EIR reads *A public authority shall provide advice and assistance, so far as it would be reasonable to expect the authority to do so, to applicants and prospective applicants*, even 1 or 2 years' worth of data would potentially exceed the 18 hours and therefore be captured by Regulation 12(4)b as "manifestly unreasonable" (potentially, as until the work is undertaken the exact extent of the work at this stage is unknown). The Council therefore does not believe it can offer any advice on bringing this request within a timescale for compliance that is not manifestly unreasonable.

Regulation 12(1)b of the EIR obliges the Council to consider if *in all the circumstances of the case, the public interest in maintaining the exception outweighs the public interest in disclosing the information*. The Council recognises that there is a presumption of disclosure under the EIR and that the Council should be transparent and accountable in its activities; indeed a large amount of information relating to planning applications is available on the Council's planning portal on its website at the following link:

[Search and comment on planning applications \(wigan.gov.uk\)](#)

However, in this case it is considered that the significant amount of time that would be required to be spent by Council Officers to undertake the work required to find and review the requested information is disproportionate and outweighs the public interest in disclosing the information. This assessment is based on the time that would be required to be spent by Officers to find and review the information at the expense of the tax payer. In this context the time spent will draw Council Officers away from their statutory obligations and duties within the planning service, the latter which provides an important public service in terms of delivering the planning functions of the Local Planning Authority. Furthermore, the planning service operates with limited budgetary and staffing resources, therefore the completion of this task will further increase service pressures and the ability to complete statutory obligations, duties and functions that are of importance to the residents of the borough.

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