



Enquiries to: Information Team
Our Ref: FOI 4043454

request-666299-9dde95a9@whatdotheyknow.com



Dear Mr Bett

Freedom of Information Request 4043454

Thank you for your recent request. Your request was actioned under the Freedom of Information Act 2000 in which you requested the following information –

Liverpool's Cabinet Member of Business and Enterprise Councillor Gary Millar & director of BID Liverpool.

Dear Cllr Gary Millar,

1. Could you please supply all the details as to your involvement with acting as one of the judges at, Liverpool's 30 James Street Titanic Hotel, which won an Independent Award from Awards founder and editor of the Collective Magazine, Lee Hagan.

Ref: Liverpool's Signature Living group behind the 30 James Street Hotel was awarded the Independent accolade at the Collective Honours Awards.

By: Echo reporter Georgia Morgan 28TH November 2014.

2. Were you paid any fees from Signature Living, or Mr & Mrs Kenwright for your input?

3. Were you involved in getting the Mayor of Liverpool (Joe Anderson) to gift or donate a £10,000 payment to Collective Magazine, Lee Hagen?

4. Cllr Millar that night in question did you work with Daniel Hughes or Hughes PR and Echo reporter 'Georgia Morgan who was a host for that event?

5. Cllr Millar both the Collective Magazine and its founder are nowhere to be found in Liverpool at all, and in fact he is now using a fake name on line, do you still deal with him and how does one buy his magazine, if there was ever one?

6. . Cllr Millar you are a member (director) of BID could you explain the reasons as to while ordinary businesses struggle within the city centre, yet Lawrence Kenwright enjoys paying not one penny in BID fees, why is this Cllr Millar, BID is Constituted by UK law in 2004 and have you or BID not taken any legal action over none payment?

7. BID has 1,500 BID Levy Payers in Liverpool; Cllr Millar you are a director of BID so what role do you play in this company?

Response:

We would advise that Freedom of Information legislation relates to information held by public authorities and does not extend to require the provision of explanations or for matters which do not relate to City Council business. As such and in respect to all elements of your request, Liverpool City Council do not hold any such information.

In addition to the above point, we note that elements of your request comprise comment, speculation, opinion and innuendo. We would therefore draw your attention to the following responses.

Notice of Application of Section 14 (1) – Vexatious Request – applied to this request and subsequent requests of the same or similar nature

With regard to the submission of speculative requests which comprise innuendo, comment, opinion and potentially defamatory statements, Liverpool City Council would advise that Section 14 of the Freedom of Information Act 2000 allows a Local Authority to refuse what is deemed to be a vexatious request with reference to the worthiness of the request as placed against the impact it would have on the Local Authority.

Consequently the City Council feels that the application of Section 14 of the Freedom of Information Act 2000 is appropriate in these circumstances and would refer you to *Information Commissioner vs Devon County Council & Dransfield [2012] UKUT 440 (AAC), (28 January 2013)* in which the Upper Tribunal took the view that the ordinary dictionary definition of the word vexatious is only of limited use, because the question of whether a request is vexatious ultimately depends upon the circumstances surrounding that request.

In further exploring the role played by circumstances, the Tribunal placed particular emphasis on the issue of whether the request has adequate or proper justification. They also cited two previous section 14(1) decisions where the lack of proportionality in the requester's previous dealings with the authority was deemed to be a relevant consideration by the First Tier Tribunal.

After taking these factors into account, the Tribunal concluded that 'vexatious' could be defined as the "...*manifestly unjustified, inappropriate or improper use of a formal procedure.*' (paragraph 27).

Officers within the City Council, while always adhering to their responsibilities and obligations under the Freedom of Information Act 2000 should not be expected to be subject to such levels of public scrutiny of their performance and the City Council considers this type of request to be bordering upon an abuse of the Freedom of Information Act 2000 and there is no justification for officers to, in practice, cease their everyday activities and review all records in a manner disruptive to the conduct of operational legislative duties solely to satisfy a request such as this.

The City Council considers this is a request specifically designed to cause disruption to the relevant Officers and Service Areas identified by generated additional administrative and bureaucratic work and, consequently, it will not be providing the information asked for in this element of your request.

While the Act can, indirectly, ensure officers are held to public account the City Council already has such processes in place and there is no requirement for members of the public to feel they need to assume this role, either on behalf of the City Council or other members of the public. It is on this basis that the City Council considers that the application of Section 14 (1) is entirely appropriate to the requests concerned.

The City Council would further advise that any requests of the same or similar nature received will again be viewed in the context of a Section 14 (1) exemption and no responses provided.

Warning – Submission of Information Requests with potentially Defamatory Content

It is our assessment that elements of your request are in whole or part defamatory in nature, that these identify or refer to individuals and are being published by yourself through the use of a public website forum to third parties.

We would further advise you that the defamatory statements made by yourself either directly or through recognised aliases and contained within the information requests referenced above fall within the meaning of Article 14(1)(a) of the E-Commerce Directive (2000/31/EC). Under the law of England and Wales, a defamatory statement is one which tends to lower the claimant in the estimation of right thinking members of society generally (*Sim v Stretch* [1936] 2 All ER 1237).

We would further advise that a defamatory statement is published at the place where it is read, heard or seen, and is not where the material was first placed on the internet. In internet cases, therefore, provided a small number of people have access to the material on the internet in England, the English courts will have jurisdiction to hear the claim against a foreign defendant (*Spiliada Maritime Corp v Cansulex Ltd* [1987] A.C. 460).

We would therefore advise that you take prompt action to remove or disabled access to the Offending Webpages.

In the event that this confirmation is not received, the individuals named directly or by implication within the above referenced information requests and publicly displayed on the Offending Websites shall reserve the right to issue proceedings against you seeking relief for defamation.

The remedies that may be available to the these individuals include an injunction restraining further publication of the Offending Statement [pending trial], damages, legal costs and interest.

This concludes our response.

In accordance with the application of Sections 14 of the Freedom of Information Act 2000 we have not provided all of the information requested. As such this letter serves as a Section 17 Notice under the Freedom of Information Act 2000.

The City Council will consider appeals, referrals or complaints in respect of your Freedom of Information Act 2000 and you must submit these in writing to Informationrequests@liverpool.gov.uk within 28 days of receiving your response. The matter will be dealt with by an officer who was not previously involved with the response and we will look to provide a response within 40 days.

If you remain dissatisfied you may also apply to the Information Commissioner for a decision about whether the request for information has been dealt with in accordance with the Freedom of Information Act 2000.

The Information Commissioner's website is www.ico.gov.uk and the postal address and telephone numbers are:- Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK95AF. Telephone 0303 123 1113. Email – mail@ico.gsi.gov.uk (they advise that their email is not secure)

We trust this information satisfies your enquiry.

Yours sincerely

A Lewis
Information Team