

May 2023

## Information on bonfires and Housing Executive land.

1. How many bonfires take place on land owned by the Housing Executive, and the location of these bonfires?

Regulation 12(5)(a) provides an exception to disclosure of information to the extent that disclosure would adversely affect public safety. This exception has been engaged as given the highly sensitive and complex nature of bonfires, the Housing Executive has determined that placing this information into the public domain would present opportunities for those who disagree with or are directly opposed to such celebrations to accurately pinpoint the site location of bonfires. This would result in increased community tension with the propensity to affect public safety. This exception is subject to the public interest test.

Public interest factors in favour of disclosure include:

- There is a presumption in favour of disclosure of Environmental Information
- Promoting openness and transparency
- Providing greater public awareness and understanding of environmental matters

Public interest factors in favour of maintaining the exception include:

- Sensitivity of the information
- Damage that would be caused to community relations
- Avoiding any increase to tension in the community which would adversely affect public safety
- Strong public interest in protecting public safety and community relations

Outcome of the public interest test:

In all the circumstances of the case the public interest in maintaining the exception outweighs the public interest in disclosing the information due to the strong public interest in not adversely affecting community relations and public safety.

2. As the landowner, how many waste management licences does the Housing Executive have in respect of any bonfires on its land and the location of where the licences are held for bonfires to take place on the Housing Executive's land?

The Housing Executive does not hold any waste management licences.

3. How many prosecutions or cautions has the Housing Executive undertaken or sought, in respect of contravention of Art 4 of the Waste and Contaminated Land (NI) Order 1997 regarding bonfires that have taken place on the Housing Executive's land?

The Housing Executive has not undertaken or sought any prosecutions or cautions regarding bonfires under Article 4 of the Waste and Contaminated Land (NI) Order 1997. The Housing Executive is not an enforcing authority for the purposes of that order.

4. How many prosecutions or cautions has the Housing Executive undertaken or sought, in respect of the Clean Air (NI) Order 1981 regarding bonfires that have taken place on Housing Executive land?

The Housing Executive has not undertaken or sought any prosecutions or cautions under the Clean Neighbourhoods and Environment Act (NI) 2011 which is essentially concerned with the powers of district councils.

5. How many statutory inspections has the Housing Executive undertaken concerning bonfires, for statutory nuisance in its district under Section 63 of the Clean Neighbourhoods and Environment Act (NI) 2011?

The Housing Executive has not undertaken any statutory inspections under the Clean Neighbourhoods and Environment Act (NI) 2011. Such statutory inspections are not within the statutory powers or duties of the Housing Executive.

6. How many abatement notices concerning bonfires, have been issued or sought under Section 65 of the Clean Neighbourhoods and Environment Act (NI) 2011?

The Housing Executive has not issued or sought abatement notices concerning bonfires under Section 65 of the Clean Neighbourhoods and Environment Act (NI) 2011. Section 65 of that Act concerns the procedures for nuisance abatement action by district councils.

7. How many risk assessments have been carried out by the Housing Executive concerning bonfires on its land under its duty of care under the Occupiers Liability (NI) Act 1957 as amended and duty of care under Health and Safety concerning the question of all bonfires requiring to be risk assessed?

Housing Executive staff do not carry out risk assessments concerning bonfires on its land under the Occupiers Liability (NI) Act 1957 or under Health and Safety legislation. There is no requirement to do so. However, Housing Executive staff do monitor sites on an ongoing basis and where supported and safe, materials will be

removed and action may also be taken to secure sites and protect adjoining properties.

8. How many bonfires sites on the Housing Executive's land have public liability insurance and has the Housing Executive informed their insurance providers as to bonfire building activity on its land?

The Housing Executive holds a public liability insurance policy that will respond in the event of NIHE being found legally liable for personal injury and/or property damage arising from its business activities, this extends to cover legal liability for loss arising from bonfires constructed on its land. Therefore the Housing Executive cannot provide a number in response to this question.

The Housing Executive insurers are aware that bonfires are built on land owned by the Housing Executive as this is public knowledge.

I note the comments set out in the last paragraph of your letter. The Housing Executive recognises that the matter of bonfires can be a highly divisive matter bound up with opposing views on cultural identity. As detailed previously, Housing Executive staff monitor sites on an ongoing basis and where supported and safe, materials will be removed and action may also be taken to secure sites and protect adjoining properties. The decisions as to how to deal with bonfires built on Housing Executive land often involve balancing its position as a landowner on the one hand with other considerations concerning its staff and contractors on the ground. We endeavour to work with communities to promote positive expressions of culture, an example of this is where a number of communities moved to beacon use last year as opposed to a traditional bonfire. Ultimately, the Housing Executive as the landowner is not legally responsible for the unauthorised actions of trespassers upon its land building and lighting bonfires.