



Dear resident(s)

We are writing in response to the email that you have sent to us expressing concern about the requirement we are now under to disclose complaint information into the court proceedings relating to the Walleys Quarry Landfill site.

As you will know, the Council issued Walleys Quarry Limited (WQL) with an abatement notice that requires WQL to make sure that nuisance odours do not leave the site. You will also know that Walleys Quarry Limited have appealed against the abatement notice and that the appeal is currently going through the legal process at North Staffordshire Magistrates Court. As part of that process, the Court has made an Order that requires the Council and WQL to disclose, to each other, information that each party will rely on in the proceedings. That is standard practice in court cases so that each party can prepare properly, so that there can be a fair trial.

We completely understand the concerns you have about personal data being disclosed into the court process. We have been very careful not to disclose any personal data up until this point when we are, by law, required to do so. We have very carefully considered whether there is any category of personal data we might be able to withhold. We have, reluctantly, reached the conclusion that there is not.

In addition to technical evidence from expert witnesses dealing with things like emission levels at different locations, the most significant and compelling part of the council's case is the lived experiences of the residents who have suffered because of the odours from the site. It is, ultimately, because of the lived experiences of the residents that this action is being taken. It is those lived experiences that will help the court decide whether the odours are simply an inevitable consequence of normal landfill operations that have to be tolerated, or whether they are so serious and widespread that they amount to, in law, a nuisance that must be stopped.

In order to make its case, the Council will need to be able show the court how many complaints there have been, the precise location of the complaints, the date and time of day, prevailing weather conditions and the impacts described in every case. That will present a wider picture, or pattern, for the court, triangulated with other data. Similarly, the right to a fair trial means that WQL is entitled to see and properly analyse the complaint information. WQL is entitled to try to make the case that the data is flawed, that complaints have been overstated or duplicated and that the wider picture or pattern is wrong, or can be explained by something other than the landfill site.

In order for the Council and WQL to properly undertake that analysis and put it before the court, and in order for the court to carefully consider the same and decide which analysis it prefers, all of the complaint data needs to be disclosed. WQL will assert, for instance, that an analysis of the names, postal or email addresses and telephone numbers associated with each individual complaint is important information in assessing the extent to which there may be duplicated or overstated/misinterpreted complaints.

We of course understand your concerns, and it would be our preference not to share this information. However, the Council has to do absolutely everything it can to present the best

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possible case and try to ensure a successful outcome for our communities. WQL are entitled to a fair trial, and both parties must comply with the court order. The protection of personal data in cases like this has to be balanced with the right to a fair trial, and disclosure in these circumstances is expressly provided for by Schedule 2, Part 1, Paragraph 5 (3) (a) of the Data Protection Act 2018.

It is also important to note that there are court rules that govern the disclosure process which prevent WQL from using any of the information for any purpose outside of the court proceedings.

In conclusion, whilst we very much understand your concerns, we hope that you will understand that we have no choice in this matter unless, perhaps, there are very specific and sensitive considerations relating to your personal data in particular. If you think that is the case, then please let us know by emailing WQdata@newcastle-staffs.gov.uk

We thank you, most sincerely, for everything that you have done to help us so far, and hope that you will continue to support us through this process. We simply could not do this without the support and co-operation of our communities and it is very much appreciated.

Many thanks

A handwritten signature in black ink, appearing to read "Martin T. Handley". The signature is written in a cursive style with some capital letters.

Chief Executive
Newcastle-under-Lyme Borough Council

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