

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 30 November 2022

Public Authority: Hampshire County Council
Address: The Castle
Winchester
Hampshire
SO23 8UJ

Decision (including any steps ordered)

1. The complainant requested from Hampshire County Council ('the council') information relating to a waste facility proposed in Alton, Hampshire. The council initially refused parts of the request on the basis that exceptions apply. Subsequently it disclosed all of the information which it holds but redacted some information under the exception in Regulation 13(1) (personal data).
2. The Commissioner's decision is that the council was correct to apply Regulation 13(1) to withhold the data. He has, however, also decided that the council did not comply with the requirements of Regulation 5(2).
3. The Commissioner does not require the council to take any steps.

Request and response

4. On 19 October 2021, the complainant wrote to the council and requested information in the following terms:

“(1) any information exchanged between the HCC Waste Planning department and the HCC Strategic Planning Department since August 2020 regarding the application by Veolia to build an ERF near Alton (ref: 33619/007).

(2) any information exchanged between the HCC Landscape Department and HCC Strategic Planning Department in relation to this development since September 2020, given the last document published on the HCC website from the Landscape department is a Holding Objection dated 14th September 2020.

The above information may include communications, emails, letters, documents, presentations, or minutes within the Council, with its partners, consultants or with the waste contractor Veolia.

If it is not possible to provide the information requested due to the information exceeding the cost of compliance limits identified in Section 12, please provide advice and assistance, under the Section 16 obligations of the Act, as to how I can refine my request.”

5. The council responded on 2 November 2021. It disclosed some information in respect of part 1 of the request, however it redacted information under Regulation 13(1) (personal data)
6. The complainant was unhappy at the amount of information which was disclosed and asked the council to review its decision. Following an internal review, the council wrote to the complainant on 21 December 2021. It continued to apply Regulation 13(1), however it also applied Regulation 12(4)(e) (internal communications) to withhold other information from disclosure.
7. Following a further review, the council wrote to the complainant on 7 June 2022. It disclosed further information as the planning application had, by that point, been decided.
8. The council confirmed to the Commissioner that the only information which it is now withholding is the information which it has redacted under Regulation 13(1).

Reasons for decision

Regulation 13(1) - personal data of third parties

1. The following analysis explains why the Commissioner is satisfied that the public authority was entitled to apply Regulation 13(1) of the EIR to the withhold the redacted information.
2. Regulation 13(1) of the EIR allows a public authority to withhold information if it is personal data, (i.e., information falling within the scope of the definitions provided in sections 3(2) and (3) of the Data Protection Act 2018), and none of the conditions listed as a lawful basis for processing listed in Article 6(1) of the UK GDPR is satisfied.
3. The Commissioner is satisfied that the requested information is personal data. It relates to contact details of various council officers, including their personal work addresses and signatures, the identity of a third party and brief details relating to them, and the name and professional contact details of employees of other organisations and public authorities.
4. The Commissioner has decided that section Regulation 13(1) is satisfied as a disclosure of the redacted information would contravene data protection principle (a).
5. The Commissioner has ascertained this by assessing whether there is a lawful basis for processing the requested information under Article 6(1)(f) of the UK GDPR.
6. He has determined that, whilst the complainant has a legitimate interest in disclosure, and disclosure would be necessary to satisfy that interest, there is insufficient legitimate interest to outweigh the data subjects' fundamental rights and freedoms.
7. The Commissioner has determined this by balancing the legitimate interest of the complainant against the rights of the individuals concerned, and whether they would have a reasonable expectation that their information would be disclosed to the public.
 - Junior council officers would not expect that their details would be disclosed in response to an FOI request in this case.
 - It would not be fair to disclose the identities and contact details of council employees where it was not necessary for that to occur in order for the council to be transparent about its actions. This would be unwarranted, and would allow unwanted direct contacts in the future.

- When considering the internal telephone contact details and signatures of council employees, the name, role and e-mail address of each identified officer was disclosed, and this is sufficient to serve the legitimate interests raised by the request.
 - It is not necessary to disclose the identities and contact details of officers from other authorities in order for the council to be transparent and accountable for its actions. Those individuals would also not expect that their personal work details would be disclosed by the council in response to an FOI request.
 - The actions, decisions, and correspondence which the council has had internally, and with other individuals, is clear from the information already disclosed. There is no further requirement for a disclosure of the withheld personal data in order for the council to be transparent and meet the legitimate interests raised by the request.
 - The details of the third party are irrelevant to the legitimate interests raised by the request. They would also not have any expectation that their details might be disclosed in response to an EIR request.
8. As the Commissioner has concluded that disclosure would not be lawful under Article 6(1)(f) of the UK GDPR, he has not gone on to separately consider whether disclosure would be fair or transparent.
9. The Commissioner's decision is therefore that council was able to withhold the personal data from disclosure under Regulation 13(1).

Regulation 5(2)

10. The complainant made her request for information on 19 October 2021.
11. The council disclosed the remaining information falling within the scope of the complainant's request on 7 June 2022.
12. This fall outside of the 20 working days to provide a response required by Regulation 5(2).
13. The Commissioner has therefore decided that the council did not comply with the requirements of Regulation 5(2).

Right of appeal

14. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals,
PO Box 9300,
LEICESTER,
LE1 8DJ

Tel: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

15. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
16. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Signed

Ian Walley
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Wycliffe House
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Wilmslow
Cheshire
SK9 5AF