

**Freedom of Information Act 2000 (FOIA)**  
**Environmental Information Regulations 2004 (EIR)**  
**Decision notice**

**Date:** 15 March 2019

**Public Authority:** Therfield Regulation Trust

**Address:** [clerk.conservators.therfield@gmail.com](mailto:clerk.conservators.therfield@gmail.com)

**Decision (including any steps ordered)**

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1. The complainant has requested information about the Therfield Regulation Trust's (the Trust) income and expenditure in respect of plans to develop a piece of land. The Trust originally argued that it was not a public authority for the purposes of the EIR. However following the complainant's request for an internal review of that decision, the Trust accepted that it was subject to the EIR and went onto provide some information. The complainant believed that the Trust held further information relevant to his request and complained to the Commissioner. During the Commissioner's investigation the Trust disclosed further information. However it became apparent that there was still some information that had not been disclosed. It also became clear that some of the information captured by the request was being withheld under regulation 12(5)(b) on the basis that it was protected by legal professional privilege.
2. The Commissioner's decision is that the Trust has breached regulation 5(1) by failing to communicate all the information to which the complainant was entitled. It also breached regulation 5(2) by failing to communicate information to which the complainant was entitled within 20 working days of the request being received.
3. However the Commissioner finds that the Trust is entitled to rely on regulation 12(5)(b) to withhold some of the requested information. But by failing to issue a refusal notice informing the complainant of its reliance on this exception the Trust breached regulation 14.
4. The Commissioner requires the public authority to take the following steps to ensure compliance with its obligations under regulation 5(1).

- Disclose the information identified in the confidential annexe which accompanies the notice and which has been provided to the Trust.
5. The public authority must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Act and may be dealt with as a contempt of court.

## **Request and response**

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6. On 21 May 2018 the complainant wrote to the Trustees about their plans to develop part of the common they managed and made the following request:
- “Under EIR 2004 I request all information about the income and expenditure the Trust has received or made in relation to the plan. This should include but not be limited to all the information about the costs of the deregistration, planning permission and all other elements of the project including the costs of consultants, lawyers and experts, including when these costs were incurred.”
7. On 1 June 2018 the Trustees responded. They stated that the Therfield Regulation Trust was not covered by the EIR, i.e. that it was not a public authority for the purposes of the EIR.
8. The complainant requested an internal review on the same day, 1 June 2018. The outcome of the internal review was sent to him on 26 July 2018. The review acknowledged that the original response was not in accordance with the EIR and went on to provide the complainant with a limited amount of information. That information consisted of the total expenditure relating to the scheme for the calendar years 2016, 2017 and 1 January 2018 to 1 June 2018. The Trust also confirmed that information on expenditure for calendar year 2016 was already published on the Charity Commission’s website. It provided some additional notes and informed the complainant that there had been no income relating to the scheme.
9. The complainant was not satisfied with this response and complained to the Commissioner. During the subsequent investigation, on the 19 October 2018, the Trust disclosed what it claimed was all the information relevant to the request. This consisted of a spreadsheet detailing invoices for expenditure incurred in respect of the scheme going back to 2011, together with copies of invoices listed on that spreadsheet. The Trust re-stated its position that there had been no income generated by the scheme.

10. Some of the invoices disclosed were from the Trust's solicitors and during her investigation the Trust volunteered to the Commissioner that these were accompanied by 'narratives' which listed the legal services which were being charged for. It explained that it did not consider these were captured by the request, but even if they were, the narratives attracted legal professional privilege and therefore would be exempt from disclosure under regulation 12(5)(b) – information the disclosure of which would adversely affect the course of justice.

## **Scope of the case**

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11. The complainant contacted the Commissioner 29 July 2018 to complain about the way his request for information had been handled. At that time his concern was that the Trust had failed to provide him with all the information captured by his request. Following the Trust's disclosure of additional information in October 2018 the complainant remains of the opinion that the Trust holds additional information. When the complainant was made aware that the narratives to the legal invoices had not been provided he argued that these were captured by the request and that the Trust should have informed him of its grounds for withholding them. He has also said that he wishes to know when the amounts covered by the invoices were actually paid and that this information would be recorded within the Trust's bank statements.
12. The Commissioner considers that the scope of the case is to determine whether the Trust has complied with its obligations under regulation 5 to make the information it holds available upon request, in other words whether it has now provided the complainant with all the information captured by the request that it is obliged to. This involves consideration of whether the Trust has identified and located within its records all the information captured by the request, and, to the extent that any of that information has been withheld on the basis that it attracts legal professional privilege, whether the Trust is entitled to rely the exception provided by regulation 12(5)(b).
13. The Commissioner will also consider whether the Trust has complied with two of the main procedural requirements of the EIR. Regulation 5(2) requires that a public authority provides the disclosable information within 20 workings of the request being received. Where a public authority withholds any of the information captured by a request, regulation 14 requires that a public authority issues the applicant with a refusal notice explaining on what basis that information is being withheld.

## **Reasons for decision**

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**Regulation 5 – duty to make information available on request**

14. Regulation 5(1) of the EIR states that a public authority that holds environmental information will make it available on request. This obligation is subject to a number of exceptions contained in regulation 12.
15. Regulation 5(2) provides that a public authority should provide the information to which the applicant is entitled to within 20 working days of the request being received.
16. The Trust identified all the information it believed was captured by the request. This information has been disclosed to the complainant apart from some information which the Trust considers attracts legal professional privilege and therefore to be exempt under regulation 12(5)(b).
17. The Trust also acknowledges that it holds information in its bank statements which show when the actual invoices were paid. The complainant has argued that such information is captured by his request. Although it did not initially interpret the request as including this information, the Trust has advised the Commissioner that it is prepared to disclose this information.
18. The Commissioner will first consider whether, apart from the information in the bank statements and the information that potentially attracts legal professional privilege, the Trust has identified and disclosed all the information it holds.
19. In cases where there is some dispute over the amount of information located by a public authority and the amount of information that a complainant believes may be held, the ICO, following the lead of a number of Information Tribunal decisions, applies the civil standard of the balance of probabilities. In other words, in order to determine such complaints the ICO must decide whether on the balance of probabilities a public authority holds any information which falls within the scope of the request (or was held at the time of the request).
20. As already discussed the Trust disclosed the total expenditure for calendar years 2016, 2017 and for 2018 up to the 1 June 2018, the date of the internal review. On the 19 October 2018 the Trust disclosed a spreadsheet for the expenditure incurred from 2011 to 2018. 37 items of expenditure were listed on that spreadsheet. The spreadsheet showed the date the expenditure was incurred, the amount and brief details of the supplier and reason for the invoice. The spreadsheet was annotated to show that invoices were not held in respect of two of the items listed. The Trust disclosed the 35 invoices that did exist in respect of the expenditure listed in the spreadsheet.

21. Following the disclosure of this information the Commissioner communicated with the complainant by telephone and email, in order to clarify whether he was satisfied with the response he had now received and, if not, to provide him with the opportunity to explain his grounds for believing that there was still additional information held by the Trust. The complainant did raise a number of queries in respect of the withheld information and provided the Commissioner with some arguments in support of his contention that more information was held. Although he advised the Commissioner that he believed there were also other grounds for believing further information was held, he declined to provide those arguments. The Commissioner put the arguments which the complainant did provide to the Trust, together with any queries that she considered arose from the Trust's responses.
22. Firstly the complainant challenged whether it was plausible that there were no invoices for two of the items of expenditure. One of these items of expenditure was for a sum paid to a firm of surveyors/land agents. The complainant believed this sum was the cost of deregistering a piece of common land and that the amount shown on the spreadsheet only covered the statutory fee charged for applying to deregister common land. It did not appear to include any professional fees charged by the land agent itself for handling the deregistration. Therefore the complainant's second argument was that unless the land agent had acted for free, there should also be invoice for those fees. Thirdly the complainant understood from the local planning authority's website that the Trust had applied to renew the planning application for a piece of its land and that there should be an invoice or receipt for the fee charged for renewing the application. The fourth issue raised by the complainant concerned an amount of £7,900 which the complainant believed was unaccounted for within the information he had received. These points were put to the Trust.
23. In response to the Commissioner's queries regarding the lack of invoices for two items of expenditure the Trust confirmed that one of the items did relate to the deregistration fee. It went on to explain that under the terms of its contract with the land agent the Trust only incurred additional costs if the deregistered land was then sold. The Commissioner understands that ultimately the land was not sold, therefore there were no further costs and no additional invoice. The Commissioner is also satisfied that in the circumstances it is quite plausible that the land agent would not have invoiced the Trust for the actual deregistration fee.
24. The other item of expenditure for which there was no invoice relates to a sum paid to the Trust's solicitors. The Trust has explained that the sum was to cover the costs of the other side to a transaction. The Trust was liable for those costs regardless of whether that transaction was completed. It was paid into the solicitors' client account for the Trust

and released to the other party at a later date. The Trust has advised the Commissioner that its solicitors explained the need for the sum and the process involved through emails and phone calls. The Trust considers that if these emails are captured by the request they would be protected by legal professional privilege and therefore exempt from disclosure under regulation 12(5)(b). The Commissioner accepts the Trust's explanation of why there is not a separate invoice for the amount in question. She will consider whether the emails are captured by the request and if so whether that information is exempt under regulation 12(5)(b) later.

25. For completeness, the Trust volunteered to the Commissioner that the amount set aside to cover the other party's costs had been over estimated. This meant that a few hundred pounds were left over and this was eventually repaid to the Trust. However this repayment was made after the request was received. The information recording that repayment has been provided the Commissioner to corroborate the Trust's explanation. The Trust could not be required to provide that information to the complainant as it was not held at the time the request was made.
26. The third point raised by the complainant concerned the renewal of a planning application. He understood from the local planning authority and its website that the planning application for the scheme had been renewed and believed there would have been a fee for this. He therefore questioned why this fee was not accounted for in the information he had been provided with. This was put to the Trust and it was able to identify an invoice which included the cost of the planning application. This invoice is dated before the request was received and therefore is captured by it, but had not been included in the information disclosed to the complainant. The Trust has not provided any grounds for withholding this invoice and therefore the Commissioner finds that the Trust is required to disclose it.
27. In light of the omission of this invoice from the information disclosed to the complainant, together with the fact that the information which been provided up to that point only went up to February 2018, leaving close to a three month gap between then and the date of the request, the Commissioner asked the Trust to confirm that there were no records of other costs that had been incurred by the time of the request, but that had not yet been released. Ultimately, the Trust referred the Commissioner to records relating to four further invoices, one invoice was dated after the request and so would not have been held at the time the request was received. The other invoices were dated before the request was made and therefore are captured by it. The Commissioner is satisfied these invoices were related in some way the scheme. In the absence of any arguments presented by the Trust for withholding this information the Commissioner finds they should be disclosed. These



three invoices will be identified in the confidential annexe which accompanies this notice.

28. The complainant's fourth concern related to an expenditure of £7,900 which he believed was not accounted for in the information he had received. The Commissioner understands that the complainant had accessed a copy of the Trust's accounts for the 2017 calendar year from a third party. These showed an expenditure of £7,900 in the month of December 2017. The complainant believes this amount was a deposit paid in respect of a potential land exchange which in the end did not take place and that the Trust was therefore expecting that same sum to be returned. The complainant was unable to identify the sum of £7,900, either as an expenditure, or, in respect of when the deposit was returned, as an income, within the information he had received. This point was also put to the Trust.
29. The Trust acknowledges that the £7,900 was a sum provided to its solicitors to be used as a deposit for an exchange of land. It was provided to the solicitors in December 2017, but was not actually used as the proposed land exchange did not take place. The money was returned by the solicitors in June 2018, which is after the time of the request. It is clear therefore that any record of the deposit being returned would not have been held at the time of the request and therefore would not be captured by it. There was clearly a record of the money being paid to the solicitors in December 2017 as this has already been disclosed to the complainant via his earlier request to a third party. The Trust does not dispute the existence of that record. However the Commissioner understands the Trust's position to be that the record is not relevant to the complainant's current request. This appears to be on the basis that the request seeks information on actual expenditure, i.e. money that had been spent at the time of the request. Although the £7,900 had been set aside for the proposed land exchange, as that exchange never took place, the expenditure was not actually incurred. The Commissioner accepts that information on the transfer of this £7,900 to the solicitors is not captured by the request.
30. Having considered the issues raised by the complainant, the Commissioner went on to consider whether there were any other grounds for considering the Trust held any additional information. The Commissioner had difficulty in reconciling the totals for expenditure in 2016, 2017, 2018 that had been provided at the internal review stage (26 July 2018) and the far more detailed information disclosed in October 2018. The discrepancies were in respect of both the total expenditure for each of the years and the overall total for the three years combined. The Trust was asked to explain the discrepancies.

31. In response the Trust provided the Commissioner with a reconciliation sheet showing how the two sets of figures related to one another and provided further detailed explanations of specific anomalies.
32. It explained that the main differences were due to the fact that the information provided at the internal review stage was compiled from the Trust's accounts which were based on when an invoice was paid, so that if an invoice was received in, say, 2016, but not paid until 2017, the amount would be recorded against 2017. However the information disclosed in October 2018 was organised by reference to when the invoice was actually received, so that all invoices received in 2016 were shown as relating to 2016. The other main difference was that the totals released at the internal review stage did not include VAT, whereas the more detailed information, the actual invoices, which were released in October, included VAT.
33. The Trust also explained that in respect of the 2016 invoices, two items of expenditure which were included in the information released at the internal review stage, were omitted from the information released in October. This was because it was decided on reflection that they did not relate to the scheme. The Commissioner pressed the Trust on this point and the Trust has provided her with more details. It is clear from the information provided in respect of one of these items of expenditure that it did not relate to the scheme. Given the passage of time since the internal review, the Trust is unable to explain the original confusion.
34. The other item of expenditure relates to an invoice from the Trust's solicitors. It covers a range of work and the majority of the costs incurred have nothing to do with the scheme. However the Trust does accept that the two elements of the work that was carried out do. Although the invoice itself is not itemised, the narrative that accompanied it does identify the nature of the work and the Trust has been able to identify the costs associated with that work. Therefore the Commissioner finds that those costs should be disclosed to the complainant, even if the narrative itself may attract legal professional privilege, which is matter that will be determined later.
35. Still discussing the reconciliation of the information disclosed at internal review with that disclosed in October 2018, in respect of the figures for 2018, the Trust had identified an unknown difference of £887.23. The total figure provided at the internal review stage for 2018 was £887.23 higher than the Trust now believes it should have been. The Trust has no grounds for thinking that this amount relates to an item of expenditure that can no longer be identified. It appears to be simply a case of human error made when compiling those figures at the time of the internal review.



36. Having considered the reconciliation sheet and the responses to her further enquiries, the Commissioner is satisfied that Trust has provided coherent and plausible explanations of how the two sets of figures relate to one another and in doing so has identified further information that falls within the scope of the request (ie the legal costs discussed at paragraph 34). The only remaining anomaly is the unknown difference discussed immediately above, which appears to be human error.
37. More generally, the Commissioner also asked the Trust how long it retained financial records, as the complainant has suggested it was required by law to keep records of accounts going back at least six years. The Trust was also asked to explain why the financial records did not include any expenditure from before 2011 when, according to the complainant, the scheme in question was first proposed in 2005. The Trust confirmed that it was obliged to keep financial records for six years under section 134 of the Charities Act 2011, but in fact kept records for longer than that period. These records had been thoroughly searched for information relating to the scheme but no information dating from before 2011 had been located (the Commissioner will consider the thoroughness of these searches below). The Trust explained that it was not surprised that there were no records dating from before 2011 found. This was because although the scheme was discussed as early as 2005, no formal decisions were taken, or costs incurred until 2011.
38. The Commissioner also asked to the Trust to answer a series of questions regarding how the Trust held information on its expenditure and income and the searches it had carried out in order to identify the requested information. Often in cases where there is disagreement over the amount of information that may be held, there are questions around whether the public authority asked the appropriate officers and business areas within the organisation to identify information relevant to the request. However in this case, given the nature of the information, i.e. details of expenditure and income, and the size of the public authority and therefore the simplicity of its structure, identifying the areas that needed to be searched would not have been an issue. The Trust explained that it receives hard copies of invoices and also has electronic, or digital records. When any invoice or payment is received it is assigned an income or expenditure code which relates to the reason for that transaction and this code is used when entering the item into the Trust's electronic records. This has made it relatively simple for the Trust to identify the records under the codes relating to the scheme. For thoroughness it has also carried out a physical search of its paper records to check that no invoices had been incorrectly coded and therefore entered on to the wrong accounts programme.
39. Although the Commissioner recognises that there have been some errors in presenting the information captured by the request these

appear to be caused by interpretation of the request and simple human error in aggregating figures. The Commissioner is therefore satisfied that having now carried out further searches and having identified a number of additional pieces of information which it accepts are caught by the request, the Trust has now located all the relevant information.

40. The complainant has queried why there are no records of income included in the information that has been disclosed. The Trust has maintained throughout its responses to the complainant and during the Commissioner's investigation that no income has ever been generated by the scheme. In its letter to the Commissioner dated 12 December 2018 the Trust again explained that the deregistration plan did not produce any income. It acknowledged that some payments into its accounts had been made and that these would show as receipts. These sums related to the return of deposits that had been made to third parties. The most notable of these would be the return of £7,900 deposit that had been provided to the Trust's solicitors to cover the deposit for an exchange of land (as discussed in paragraph 29 above). The initial payment of the £7,900 was omitted from the information on the expenditure incurred released in October 2018 because the land exchange did not occur and so the expenditure was never actually incurred. It is also noted that in any event the deposit was not repaid until after the request was received and therefore no record of its repayment would have been held at the time of the request.
41. The Trust also identified the refund of money paid for accommodation for a public enquiry that was held into the scheme. This was a sum of £6,187.50 returned by the local community association. The money was refunded on 2 February 2018, and so one would expect a record of its return would have been held by the time the request was received in May 2018. The Commissioner acknowledges the argument that a refund of monies previously paid out is not income generated by the scheme. However the Commissioner notes that the invoice in respect of the initial payment of the £6,187.50, dated 29 January 2018, is included in the information on expenditure disclosed to the complainant in October 2018 even though the fact that it was ultimately returned means that this cost was never actually incurred. There therefore seems an inconsistency with the approach taken by the Trust. Nevertheless on the basis that return of deposit is not income generated by the scheme, the Commissioner finds that the Trust is not required to provide the complainant with any record it has of that amount being repaid.
42. As discussed at paragraph 17 the complainant has argued that the dates which the Trust actually paid the invoices would be captured by his request. The Commissioner accepts that the terms of the request are broad and can be objectively interpreted as including the dates on which the Trust paid the invoices. This information has not yet been provided to the complainant.

43. The Trust has provided the Commissioner with copies of its bank statements which include the details of when the invoices were actually paid. It has indicated to the Commissioner that it is prepared to disclose the dates of those payments to the complainant.
44. The Commissioner finds that the complainant is entitled to the information that existed at the time the request was made. This means that where an invoice had been received by the time of the request, but not yet been paid, no information on the date of the payment would be held in respect of that invoice. Therefore the information which the Trust is required to provide to the complainant under the EIR will appear to be incomplete. The Trust may therefore wish to consider whether to exercise some discretion and volunteer to provide a fuller set of information rather than running the risk of a further challenge from the complainant, or a further information request for the later information.
45. The information which the Trust has provided to the Commissioner are copies of its full bank statements. As such they contain details of other payments that do not relate to the scheme, together with the details of the actual bank accounts in question. The Trust is only required to provide information from those accounts that relate to the scheme and is entitled to remove any bank account details it considers necessary to protect its financial security and that of third parties.
46. Although the Trust did ultimately provide the complainant with the vast majority of the information captured by his request, it did not so within 20 working days of the request being received. This is a breach of regulation 5(2). To the extent that the Trust has not yet provided all the information to which the complainant is entitled, it has breached regulation 5(1) – the obligation to communicate the requested information

**Regulation 12(5)(b) – Adverse effect on the course of justice.**

47. Regulation 12(5)(b) provides that a public authority may refuse to disclose information to the extent that its disclosure would adversely affect, amongst other things, the course of justice.
48. The Trust has argued that the narratives to the invoices for the legal advice it received from its solicitors, together with communications from its solicitors regarding covering the costs of the other party to a land transaction, are all protected by legal professional privilege. Legal professional privilege is a very important concept in the English legal system. It protects confidential communications between a client and his legal adviser and preserves the ability of the client to present all the relevant facts of the issue he requires advice on and the ability of the adviser to then provide full and candid advice on their client's position. Such advice may discuss both the strengths and weaknesses of the

client's position, hence the need for confidentiality. Without the ability to discuss legal concerns in such a candid manner an individual would not be able to access the best legal advice available in order to protect their legal interests. It has therefore been accepted by the Tribunal that the disclosure of information that is protected by legal professional privilege is very likely to have an adverse effect on the course of justice.

49. For information to attract legal professional privilege it must consist of a communication between a client and their legal adviser, the communication must be confidential and the dominant purpose of the communication must be the provision of legal advice.
50. There are two types of privilege, advice privilege and litigation privilege. Litigation privilege applies to confidential communications made for the purpose of providing or obtaining legal advice about proposed or contemplated litigation. It can cover a wide range of information. Advice privilege is less comprehensive and protects lawyer/client communications where no litigation is in progress or contemplated.
51. The Commissioner has viewed the narratives to the invoices. They set out the times spent on performing a range of different tasks which all form part of the process of the solicitors providing the Trust with legal advice relating to the scheme and provide brief details on those tasks and the legal issues to which they relate. As such they reveal the tactical and strategic position being adopted in the legal issues under consideration. The Commissioner is therefore satisfied that the narratives do attract legal professional privilege. The communications certainly attract advice privilege and to the extent that any of the communications relate to the public enquiry that the Trust was involved, it is arguable that given the contentious nature of such enquiries and the fact that they involve legal matters to be decided before a judge, there is an argument that the narratives could also attract litigation privilege.
52. The Commissioner is therefore satisfied that the exception provided by regulation 12(5)(b) is engaged. It is however subject to the public interest test which means that although the exception is engaged the information can only be withheld if, in all the circumstances of the case, the public interest in maintaining the exception (and withholding the information) is greater than the public interest in disclosing the information.
53. There will always be a public interest in transparency. The Trust performs functions of a public nature, i.e. the management of an area of common land for the benefit of local people, providing public access and public recreation. There is a public interest in holding the Trust to account for the decisions it has taken and, in the case of the narratives, the money it has spent in pursuing those objectives. It is apparent from the information already disclosed that the sums involved are not

insubstantial. The Commissioner also recognises that the scheme raised issues which on the face of it are controversial, such as the deregistration of common land and development of land. There appears therefore to be some strong arguments in favour of disclosing the requested information. However it must be remembered that the actual amount spent on legal advice was disclosed. Furthermore, although the narratives do provide an overview of the tactics and strategy being adopted, they do not provide detailed information that would allow the merits of the Trust's position to be fully understood.

54. Against these arguments is the public interest in maintaining the exception and preserving the right of individuals to seek and obtain full and candid legal advice in order to pursue or defend their legal interests. The principle that a client should be able to communicate with their legal adviser in confidence is considered a cornerstone of the English legal system. The Tribunal has previously found that there is a strong element of public interest inbuilt into the privilege itself. Added to this is the fact that communications and advice revealed within them, are all relatively recent, being within two and half years of the request being made and some of the issues to which it relates will still be relevant to the performance of the Trust's work.
55. Given the inherent public interest in preserving the principle of legal professional privilege, that fact that the advice is relatively fresh and the limited extent disclosing the narratives themselves would help the public better understand the decisions or performance of the Trust, the Commissioner finds that the public interest favours maintaining the exception. The Trust is entitled to withhold the narratives together with the communications explaining the payment of third party costs in respect of a potential transaction (as discussed in paragraph 24 above).

#### **Regulation 14 – refusal of a request**

56. Under regulation 14 a public authority which is relying on an exception to refuse a request must serve a refusal notice on the applicant identifying the exception in question and explaining why the exception is engaged and why the public interest favours maintaining the exception. That refusal notice should be served within 20 working days of the request being served.
57. In this case the complainant only became aware of the existence of the narratives to the legal advice, and that the Trust considered they attracted legal professional privilege, through the Commissioner during her investigation. It is noted however that prior to the Commissioner's investigation the Trust considered the narratives were outside the scope of the request, therefore as far as it was concerned there was no need to inform the complainant of their existence, or that they were privileged.

58. Nevertheless the Trust ultimately argued that the narratives were covered by the exception provided by regulation 12(5)(b) but did not inform the complainant of this. The Commissioner therefore finds the Trust breached regulation 14. However as the complainant is now aware of the Trust's position, partly through his correspondence with the Commissioner and partly through this decision notice, the Commissioner does not require the Trust to now serve a refusal notice as it would serve no purpose.

### **Other matters**

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59. Although not forming part of the formal decision notice the Commissioner uses the 'Other Matters' section to identify issues of concern that were raised by the investigation.
60. The Commissioner recognises that the Trust is a small public authority and has limited experience of dealing with information requests. It has to a large extent cooperated with the Commissioner's investigation. It is disappointing therefore that in order to obtain timely responses to her final queries it was necessary to serve an Information Notice on the Trust.



## **Right of appeal**

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61. 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: 0300 1234504

Fax: 0870 739 5836

Email: [GRC@hmcts.gsi.gov.uk](mailto:GRC@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

62. 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.
63. 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**

**Rob Mechan**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**