

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

Date: 6 February 2025

Public Authority: Carmarthenshire County Council

Address: County Hall
Carmarthen
SA31 1JP X

Decision (including any steps ordered)

1. The complainant has requested information related to a specified Planning Application. Carmarthenshire County Council ("CCC") relied on regulation 13 of the EIR (third party personal information) to withhold the information.
2. The Commissioner's decision is that the CCC has correctly relied on regulation 13 of the EIR to withhold the information but that it failed to respond to the request in time and breached regulation 5(2) and regulation 14 of EIR.
3. The Commissioner does not require further steps to be taken.

Request and response

4. On 13 May 2024, the complainant wrote to CCC and requested information in the following terms:

"I am making a formal request for information under the Environmental Information Regulations 2004 / Freedom of Information Act 2000.

This request relates to:

Planning Application - [redacted]. (address details redacted).

I wish to be provided with the following (4) documents:

- 1). First year annual Monitoring Report.
- 2). Second Year Annual Monitoring Report.
- 3). Third year Annual Monitoring Report.
- 4). Thirty-six Month Ecological Footprint Analysis."

5. On 18 June 2024, the Complainant requested an internal review from CCC as he had not received a response stating

"I request an 'Internal Review' of my Freedom Of Information Act 2000 (FIO) / Environmental Information Regulations 2004 (EIR) request, dated 13/05/2024.

Carmarthenshire County Council (CCC) acknowledged my request and identified the legally required timescale, 20 working days, in which they must reply, unless they require some clarification regarding the request. The 20 working days are now exceeded, yet I have received no further communication. No clarification issue, no refusal notice and no production of the four (4) documents requested."

6. Following an internal review, CCC wrote to the complainant on 2 July 2024. It confirmed that it held the information and refused to disclose it stating that

"Having reviewed the relevant information, I note that it contains personal data regarding the family that owns (address redacted). I must therefore consider whether the exemption in Regulation 13 of 2004 Regulations should be applied in this case.

Applying this guidance to the facts of your request I consider that

1. Disclosing the information you seek would have the effect of placing it into the wider public domain. It is not just disclosed to you personally.
2. The information is not normally published on the Council's website and therefore is not normally in the public domain
3. The individuals whose personal data would be affected if disclosure occurred would not have been aware when providing it to the Council that it would be put into the public domain.

4. Those individuals would have a reasonable expectation that their personal data would be kept confidential by the council and only used for the particular purpose for which it was provided to the Council.

I am therefore satisfied that to disclose the information that you seek would breach the first data protection principles as it would be unfair to the individuals whose personal data is contained within the reports."

Scope of the case

7. The complainant contacted the Commissioner on 29 July 2024 to complain about the way his request for information had been handled.
8. The Commissioner considers that the scope of his investigation is to establish whether the public authority is entitled to withhold the requested information under regulation 13 of the EIR

Reasons for decision

Regulation 13 - personal information

9. Regulation 13 of the EIR provides that information is exempt from disclosure if it is the personal data of an individual other than the requester and where one of the conditions listed in regulation 13(2A), 13(2B) or 13(3A) is satisfied.
10. In this case the relevant condition is contained in regulation 13(2A). This applies where the disclosure of the information to any member of the public would contravene any of the principles relating to the processing of personal data ('the DP principles'), as set out in Article 5 of the UK General Data Protection Regulation ('UK GDPR').
11. The first step for the Commissioner is to determine whether the withheld information constitutes personal data as defined by the Data Protection Act 2018 ('DPA'). If it is not personal data, then regulation 13(2A) of the EIR cannot apply.
12. Secondly, and only if the Commissioner is satisfied that the requested information is personal data, he must establish whether disclosure of that data would breach any of the DP principles.

Is the information personal data?

13. The two main elements of personal data are that the information must relate to a living person and that the person must be identifiable.
14. An identifiable living individual is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of the individual.
15. Information will relate to a person if it is about them, linked to them, has biographical significance for them, is used to inform decisions affecting them or has them as its main focus.
16. Information will be personal data if it relates to an identifiable living individual.
17. In its submissions to the Commissioner, CCC explained that they do not publish any documents containing personal information used to determine a planning application
18. Having viewed the withheld information, the Commissioner is satisfied that the documents contain personal information relating to the residents of a private dwelling. If the documents were disclosed, even with redactions, it is possible that the persons who reside at the residential address may be identifiable from information contained within the documents and therefore breach the Data Protection Act.
19. This information therefore falls within the definition of 'personal data' in section 3(2) of the DPA.
20. The Commissioner has also considered whether disclosure would breach principle (a) of Article 5(1), which states that personal data shall be "processed lawfully, fairly and in a transparent manner in relation to the data subject".
21. Disclosure under the EIR is a disclosure 'to the world'.
22. The Commissioner is of the view that planning matters can be controversial, creating local tensions between both the applicants and those opposing them, and as such he considers that disclosure of personal information of individuals who make planning applications is likely to cause harm and distress to those individuals.
23. The Commissioner also considers that individuals would be less likely in the future to make any planning applications and provide confidential and personal information about them to support their application, if they were aware that their information would be disclosed to a third party or made public.

24. The complainant believes that there is a difference between what materials the applicant proposed would be used in the construction of the dwelling and what was actually used and therefore the public interest and concerns with full transparency on environmental issues favoured disclosure.
25. Whilst the Commissioner accepts that the complainant has a legitimate interest in disclosure of the information in question, which it would be necessary to meet under release via the EIR, he has been unable to identify any wider legitimate interest that would outweigh the fundamental rights and freedoms of the individuals in this case.
26. The Commissioner therefore considers that there is no Article 6 basis for processing and so the disclosure of the information would not be lawful.
27. Given the above conclusion that disclosure would be unlawful, the Commissioner considers that he does not need to go on to consider whether disclosure would be fair or transparent.
28. The Commissioner has a well-established position in cases such as this¹, and therefore considers that CCC is entitled to rely on regulation 13 to withhold the 4 planning documents requested.

Procedural matters

29. In this case the complainant made their request on 13 May 2024 and CCC failed to issue a response to the request, only responding to the complainant on 9 July 2024 following a request for an internal review.
30. The commissioner finds a breach of regulation 5(2) as CCC took more than 20 days to inform the requestor it held the information.²

¹ <https://ico.org.uk/media/action-weve-taken/decision-notice/2022/4021342/ic-143049-b6l4.pdf>

¹ <https://ico.org.uk/media/action-weve-taken/decision-notice/2022/4021326/ic-103967-f5s6.pdf>

² <https://ico.org.uk/for-organisations/foi/freedom-of-information-and-environmental-information-regulations/time-limits-for-compliance-under-the-eir>

31. The Commissioner finds a breach of regulation 14³ of the EIR, as the CCC took more than 20 working days to provide its refusal to disclose the requested information.

³ [Refusing a request under the Environmental Information Regulations 2004 \(EIR\) | ICO](#)

Right of appeal

32. 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

33. 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.
34. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Michael Lea
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