

## **Environmental Information Regulations 2004 (EIR)**

### **Decision notice**

**Date:** 3 April 2025

**Public Authority:** City of York Council  
**Address:** West Offices  
Station Rise  
York  
YO1 6GA

#### **Decision (including any steps ordered)**

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1. The complainant has requested planning enforcement information about a residential address. The City of York Council ("the Council") withheld the information under the exceptions provided by regulation 13(1) (Personal data) and regulation 12(5)(b) (Course of justice) of the EIR.
2. The Commissioner's decision is that the information is personal data, and that the Council is entitled to rely on regulation 13 to refuse to disclose it.
3. The Commissioner does not require further steps.

#### **Request and response**

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4. On 8 August 2024, the complainant wrote to the Council and requested information in the following terms:

"[Property address redacted by ICO]

Please can you send me a copy of your Drainage Engineers report/notes"

5. The Council responded on 6 September 2024. It stated that the information was withheld under regulation 12(3) and regulation 12(5)(b) of the EIR.
6. Following an internal review the Council wrote to the complainant on October 2024. It maintained its original response.

## Reasons for decision

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7. This reasoning covers whether the Council is entitled to rely on section 13 (personal data) of the EIR to refuse to provide the information.
8. Regulation 13(1), by way of regulation 12(3), provides an exception for information that is the personal data of an individual other than the requester, and where the disclosure of that personal data would be in breach of any of the data protection principles.
9. Section 3(2) of the Data Protection Act 2018 defines personal data as:  
"any information relating to an identified or identifiable living individual."
10. The two main elements of personal data are that the information must relate to a living person and that the person must be identifiable.
11. In this case the Council has withheld information about an address.
12. The Council has informed the Commissioner that this address is a private residence. The requested information therefore relates to the homeowner.
13. The Commissioner's public guidance on 'What is personal data?'<sup>1</sup> explains that information that relates to an identifiable individual will represent a personal data. Identification may be direct (such as through a name or identification number) or indirect (such as through biographical information about their life).
14. In this case, the Commissioner has reviewed the withheld information and considered its context. Having done so he is satisfied that the information represents personal data. This is because it relates to the individual who is the homeowner, and specifically the legal status of

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<sup>1</sup> <https://ico.org.uk/for-organisations/uk-gdpr-guidance-and-resources/personal-information-what-is-it/what-is-personal-data/>

work that they have had undertaken to their home and which the Council has reviewed for planning enforcement purposes.

15. The Commissioner emphasises, for the benefit of the complainant, that disclosure under EIR represents to disclosure 'to the world'. The Commissioner must therefore have regard to other information or knowledge that will, or may be, in the public domain, and which could be combined with that disclosed under EIR to allow individuals to be identified. In this case, anyone with knowledge of who the homeowner is would be able to clearly connect this information to them.
16. The next step is to consider whether disclosure of this personal data would be in breach of any of the data protection principles. The Commissioner has focussed here on principle (a), which states:  
  
"Personal data shall be processed lawfully, fairly and in a transparent manner in relation to the data subject."
17. In the case of an EIR request, the personal data is processed when it is disclosed in response to the request. This means that the information can only be disclosed if to do so would be lawful, fair and transparent.
18. When considering whether the disclosure of personal information would be lawful, the Commissioner must consider whether there is a legitimate interest in disclosing the information, whether disclosure of the information is necessary, and whether these interests override the rights and freedoms of the individuals whose personal information it is.
19. The Commissioner considers that the complainant is pursuing a legitimate interest – transparency about how the Council has considered a planning enforcement concern about the address – and that there is no other way to meet that legitimate interest other than through the disclosure of the information.
20. However, the Commissioner also recognises that the information relates to a private individual and the legal status of work they have had undertaken to their home; and that it is not possible to disclose this information in an anonymised way. The Commissioner considers that disclosure of this information to the public would not be within the individual's reasonable expectations, as it represents the Council's consideration of a planning enforcement concern, and whether legal action may be required against the individual.
21. The Commissioner also notes the specific reasons for why the requester has asked for this information – relating as it does to their business interests. However, the Commissioner emphasises that whilst the requester has privileged knowledge of this matter, and has been directly involved in it, this does not mean that they have a right of access to the

homeowner's personal data. The Commissioner emphasises that the Council's consideration of the planning enforcement concern relates to the homeowner, rather than the business who undertook the work for the homeowner.

22. The Commissioner has therefore determined that there is insufficient legitimate interest to outweigh the fundamental rights and freedoms of the individual. Therefore, he considers that there is no legal basis for the Council to disclose the requested information and to do so would be in breach of principle (a).
23. The Commissioner's decision is that the Council is entitled to rely on regulation 13(1) to refuse to provide the information.
24. As the Commissioner has found that the information is exempt from disclosure under regulation 13(1), he has not considered it necessary to consider the Council's application of regulation 12(5)(b).

## Right of appeal

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25. 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](mailto:grc@justice.gov.uk)

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

26. 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.
27. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

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