Environmental Information Regulations 2004 (EIR)

Decision notice

Date: **27 July 2021**

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 information on inspections and correspondence relating to a liability claim which he made against the council for damage to his property. The council initially withheld some information under Regulation 12(5)(d), but on review, it also applied Regulation 12(5)(b) and Regulation 12(4)(e). The complainant also considers that further information should be held by it.

2. The Commissioner's decision is that the council was not correct to apply Regulation 12(5)(d) to withhold the information. She has however decided that it was correct to apply Regulation 12(5)(b), and Regulation 12(4)(e). Further to this she has decided that the council has located and considered all of the information falling within the scope of the request, and that, on a balance of probabilities, no further information is held by it. She has however decided that it did not comply with the requirements of Regulation 5(2) in that it did not provide its response within 20 working days.

3. The Commissioner does not require the council to take any steps.

ico. Information Commissioner's Office

Request and response

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4. On 18 May 2020 the complainant wrote to the council and requested information in the following terms:

   "All information pertaining to the reported problem with the public footpath under case number [case number redacted] and [address redacted]. Not limited to, but Including:

   · Details of inspections conducted by City of York Council.
   · Reports compiled – both official and unofficial.
   · Any communications had in respect to this case including any with York City Council Insurance and Risk Management Team.

   Also, details of other/historic reported problems with [address redacted] public footpath and highway. Including corrective works undertaken."

5. The council responded on 10 September 2020 and provided some information to the complainant.

6. The complainant wrote to the council again on 1 October 2020 asking it to review its decision. He also highlighted a number of areas where he considered that the council should hold further information:

   "1. a) Photos following an inspection conducted around December 2019

   b) An additional report that confirms the damp was caused by the window sill & cladding.

   c) Information about a site visit during the week of 24-28th August 2020.

   d) Reports, notes or outcomes of inspections of your property either formal or informal.

   e) All communications requested between Zurich Insurance and the risk management team.

   f) Details of other/historic reported problems with [address redacted] public footpath and highway. Including corrective works undertaken prior to 2019.

   2. Records about why the roadway was raised from its original height.

3. Information about why the public footpath on the eastern end, northern side of [address redacted] has been amended to give it the correct positive camber.

4. A copy of the proposed design for the corrective works as per email dated the 2nd September 2020."

7. The council responded on 4 December 2020 as follows:

   1. *a) no additional records beyond that already disclosed*

      b) information withheld under Regulation 12(5)(d),(proceedings)

      c) further information disclosed

      d) no further information held

      e) withheld information under Regulation 12(5)(d)

      f) no information held

   2. *further information provided*

   3. *no information held*

   4. *information provided.*

8. The complainant wrote again on 8 December 2020 pointing out further areas where he considered information should be held.

9. Following an internal review, the council wrote to the complainant on 19 January 2021. It maintained its reliance upon Regulation 12(4)(d), however it also applied Regulation 12(4)(e) (internal communications), Regulation 12(5)(b), (course of justice) and Regulation 12(5)(e), (commercial confidentiality) to withhold information. .

Scope of the case

10. The complainant contacted the Commissioner 29 July 2020 to complain about the way his request for information had been handled.

11. He considers that the council was wrong to withhold information under the exceptions it has cited. He also considers that further information should be held by the council.

ico. Information Commissioner's Office

Reasons for decision

Background to the case.

12. The complainant believes that the state of a pavement adjacent to his property is responsible for an ingress of damp into a wall of his property. He therefore made a liability claim against the council. The council accepts that the footpath needs work, but it denies liability for the damage to the complainant's property.

13. The complainant is the owner of the property. Some of the information which is under consideration is therefore personal data relating to him. This will include copies of letters between him and the council. The complainant will already hold copies of these letters. Any other information which is held which is personal data relating to him needs to be considered under the provisions of the Data Protection Act 2018.

14. As the applicant for the information, personal data relating to him is exempt from disclosure under Regulation 5(3) of the EIR. This provides that:

    "(3) To the extent that the information requested includes personal data of which the applicant is the data subject, paragraph (1) shall not apply to those personal data."

15. The complainant, however, has rights to this information under the Data Protection Act 2018, subject to any applicable exemptions. A separate complaint is being considered by the Commissioner in this respect.

16. The timing of the complainant's request for information was shortly after the council had rebutted the complainant's liability claim. The complainant was therefore in a position to make a formal complaint to the courts over the council's actions should he choose to do so.

17. The council's arguments revolve around its concern that the request was made in order to gather details of its investigations and potential defence arguments prior to him making taking a case to court.

18. Public authorities are not generally intended to take into account the motivation of a requestor (other than in certain circumstances). Disclosures made in response to requests are however considered to be to the whole world, and this would include the requestor. An authority can take into account the likelihood that disclosing the requested information might interfere with any legal claims made against it should the information be disclosed. This will include that a copy of the information would be available to the claimant.

Regulation 12(5)(d) - confidentiality of the proceedings of that or any other public authority where such confidentiality is provided by law.

19. The Council applied Regulation 12(5)(d) to the records held by its insurance service area. These relate primarily to correspondence with its insurance company regarding the liability claim. The council argues that it needs to be able to correspond freely with its insurer and conduct an investigation alongside its provider to ensure that all claims are conducted fairly and within the scope of its insurance policy. It argues that it needs this in order to be able to defend claims and protect the public purse effectively.

20. Regulation 12(5)(d) of the EIR provides that a public authority may refuse to disclose information to the extent that its disclosure would adversely affect the confidentiality of the proceedings of that or any other public authority where such confidentiality is provided by law.

21. The council argues that the complainant is in litigation with them over the issue of his property. Legal proceedings will engage the exception where a disclosure of the information would have an adverse effect upon the confidentiality of those proceedings.

22. It argues that during litigation, the rules of disclosure are managed by the courts under the Civil Procedure Rules (the CPR). The CPR lays down timescales and a formalised process, using standardised documentation, for the disclosure of information between the parties prior to the hearing occurring.

23. It considers that disclosing this information via FOI would undermine the management of the CPR rules by the court and would thus undermine the level playing field during the advocacy proceedings. The council cannot make a similar request to the complainant for information which he might be relying upon in his case outside of its rights under the CPR, and the balance between the parties is therefore affected.

24. It therefore argues that the confidential nature of those proceedings would be undermined by a disclosure of information which is not required by the CPR as at the time of the receipt of the request for information.

25. The Commissioner contacted the council on 16 June 2021 and asked it to confirm whether the complainant had initiated court proceedings at the time that the request was made. The council confirmed that he had not. It argues however that the process as it was at the point of the request was still part of proceedings in that, once the legal claim had been refuted by the council, the next step would be for the complainant to make a claim to the courts, at which point the above arguments

would become relevant. It argued that such a claim may still be made, and therefore the issue is still live and the proceedings ongoing.

26. The Commissioner recognises that, whilst the complainant had not made a claim to the courts at the point of making his request, this was clearly the next step in the process insofar as he was concerned. However, as no claim had yet been made to the court, the CPR rules were not applicable at the time of the request and there were no formal court proceedings ongoing at that point. The damages claim had been refuted by the council and that part of the process was therefore at an end. At the point of the request, no other process had been instigated by the complainant.

27. Although the Commissioner accepts the possibility that a claim to the courts could be made, as no formal proceedings were ongoing at the time that the request was received Regulation 12(5)(d) was not applicable at the time that the request was received.

28. The Commissioner's decision is therefore that the council was not correct to apply Regulation 12(5)(d) to withhold the information from disclosure.

Regulation 12(5)(b)- the course of justice, the ability of a person to receive a fair trial or the ability of a public authority to conduct an inquiry of a criminal or disciplinary nature;

29. Regulation 12(5)(b) provides that a public authority may refuse to disclose information to the extent that its disclosure would adversely affect – (b) the course of justice, the ability of a person to receive a fair trial or the ability of a public authority to conduct an inquiry of a criminal or disciplinary nature.

30. The Commissioner considers that the course of justice element of the exception is wide in coverage and accepts that it can include information about civil investigations and proceedings.

31. The council argues that the information withheld under Regulation 12(5)(b) falls within the type of information covered by Litigation Privilege. Whilst the council has argued this, the Commissioner notes that it is not necessary for information to fall within the limits of legal professional privilege (LPP) in order for the exception to be engaged; the exception will apply if the course of justice would be adversely affected even where the information is not subject to LPP.

32. For this reason, some of the arguments which the council has employed as regards the application of Regulation 12(5)(d) are also applicable in deciding whether Regulation 12(5)(b) is engaged.

33. The successful application of the exception is dependent on a public authority being able to demonstrate that the following three conditions are met:

    - the withheld information relates to one or more of the factors described in the exception,
    - disclosure would have an adverse effect on one or more of the factors cited, and
    - the public interest in maintaining the exception outweighs the public interest in disclosure.

34. The council's position is that the disclosure of the information would have an adverse affect upon the course of justice. It argues that disclosure would be unfair because it would provide details of the councils own legal position prior to the complainant making his claim to the court for damages.

35. It considers that the CPR process will be undermined if the complainant is able to obtain information relating to its defence against the complainant's potential claim prior to him making a claim to the courts. It considers that any disclosure of this information prior to the CPR requiring it would undermine its ability to defend its case, and undermine the fair playing field which court proceedings rely upon to reach a fair and balanced decision. Thus, it considers that the course of justice would be prejudiced if the information were to be disclosed.

36. In effect its arguments are therefore similar to those which it voiced in regards the application of Regulation 12(5)(d).

37. The Commissioner notes comments made by the Information Tribunal in *Rudd v the Information Commissioner & the Verderers of the New Forest (EA/2008/0020, 29 September 2008)* that 'the course of justice' does not refer to a specific course of action but is "a more generic concept somewhat akin to 'the smooth running of the wheels of justice".

38. There is a set process for necessary information to be obtained if there is a need to make a claim to the courts for damage to property. The Commissioner accepts that this process should be followed rather than requesting that information via the EIR where the courts have no oversight and management of the disclosure of the information.

39. The council has explained that the disclosure of relevant information in respect of proceedings is dealt with by the CPR and the court must decide whether the information requested is relevant to those proceedings. It considers that placing this information into the public domain outside of, and prior to this legal process, would be unfair, would undermine the proceedings and prevent a fair trial.

40. It argues that a disclosure of the information under the EIR would undermine the court process and the jurisdiction of the court, which has the power to determine what information should be disclosed, and when, during the course of proceedings. It considers that legislation, by way of the CPR, has provided a process for disclosure of information and the EIR should not be used to undermine the jurisdiction of the CPR.

41. The Commissioner notes that previous decision notices have been issued by her in relation to requests for information relating to damage to cars caused to vehicles by driving over pot holes. Again, the question in those cases was whether the council should disclose information in regard to a legal claim which was in the process of being resolved, outside of the requirements of the CPR. The notices in question upheld the use of the exception to withhold the information[1].

42. She notes also that a disclosure of the information would divulge the council's arguments, including any weaknesses in its arguments, which might therefore allow the claimant to frame the grounds of his claim in a way to tip the balance in favour of the complainant in adversarial proceedings unfairly.

43. In property damage cases of this nature, the council argues that the onus is on the claimant, or his insurance company, to prove that the council caused the damage which the claimant is seeking damages for. He needs to gather the evidence he has and make a legal claim, at which point the authority can provide any defence it has to the allegation/claim.

44. The council has considered the complainant's arguments, but disputes liability for the damage. It is therefore for the complainant to take the case to court should he believe that his evidence provides the proof he needs to be successful in proving that the council is liable. The complainant however is seeking to know why the council considers that it is not liable prior to taking those proceedings forward, which may help him in framing his arguments to the court.

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[1] fer_0611819.pdf (ico.org.uk) and IC-45186-B4K7 (ico.org.uk)

45. Having considered these factors, the Commissioner accepts that it is more probable than not that a disclosure of the information would undermine the existing legal remedies in this matter and therefore adversely affect the course of justice.

46. She is therefore satisfied that regulation 12(5)(b) was engaged.

The public interest test

47. Having concluded that the exception is engaged, the Commissioner must carry out a public interest test into the application of the exception as required by regulation 12(1)(b). The test is whether, in all the circumstances of the case, the public interest in maintaining the exception outweighs the public interest in disclosing the information.

48. When considering the balance of the public interest, a public authority must take account of the express presumption in favour of disclosure identified in regulation 12(2) of the EIR.

The public interest in the disclosure of the information

49. There is a general public interest in the council being transparent and accountable for its actions.

50. Where the actions of the council have resulted in damage to the property of a private individual there is a public interest in that being able to be scrutinised and, if the council is at fault, that that damage is rectified at the cost of the council.

51. If the council holds information which demonstrates that it was responsible for the damage which was caused there is a significant public interest in it being fair and admitting its liability and recompensing the individual for the damage caused without the need for litigation.

The public interest in the exception being maintained

52. The council does not consider that it caused the issue in this case and has provided its alternative position as regards the cause of the damp in the property to the complainant.

53. The Commissioner recognises that there are procedures in place for the individuals to follow in order to seek compensation for damages caused by third parties, and this ultimately lies with the courts.

54. There is no suggestion that the council considers the claim brought by the claimant to be fraudulent. The issue simply lies around liability for damage caused to the complainant's property.

55. The council has a legal obligation to protect the public purse from liability claims which are not the fault of the council. In this case the council argues that it is not liable for the damage caused. It has provided alternative causes for the damage to the complainant.

56. There is a public interest in allowing it to defend itself against a legal claim of this nature on a fair and equal basis, following the process and procedures set down in law for dealing with such claims. There is a strong public interest in protecting the integrity of this process.

57. The evidential burden of proving that the damage was caused by the council legally rests with the claimant. It is for the complainant to gather his evidence to prove his case to the council, and ultimately it is for the courts to assess that evidence and make a judgement as to where liability for the issue lies. The Commissioner has no relevant experience to consider where fault lies in such arguments, and it is not her role to make judgments on matters such as this.

58. The council argues that a disclosure of the withheld information would undermine the course of justice as it would undermine the level playing field which is in place in the litigation process.

59. A disclosure of information which identifies the strengths and weaknesses in a public authority's arguments may allow a claimant to tailor his arguments to better his chance of winning.

60. A disclosure of an authority's detailed defence information prior to legal action being initiated may incentivise a claimant into making a claim to court. This would require the council to use public funds to defend a claim which may not otherwise have occurred.

61. The council argues that it is not in the public interest for the CPR rules to be undermined by allowing claimants to access information which should properly be managed by courts under the CPR process simply because they have not yet taken the final step of initiating litigation proceedings. The option for them to do so remains, and a disclosure under these circumstances would help the claimant to formulate the terms of his claim against the council bearing in mind the council's arguments in its own defence.

The balance of the public interest

62. Under the CPR, the council is required to release supporting evidence in response to a formally submitted court claim. Standard disclosure requires a party to disclose—

(a) the documents on which he relies; and

(b) the documents which—

(i) adversely affect his own case;

(ii) adversely affect another party's case; or

(iii) support another party's case; and

(c) the documents which he is required to disclose by a relevant practice direction.

63. Whilst smaller claims are dealt with differently under the CPR, nevertheless the court retains the ability to order documents to be disclosed in order to best manage the proceedings and ensure a fair decision is reached.

64. This clearly indicates to the Commissioner that there is a more appropriate regime than the EIR for accessing information that is relevant to potential claims such as in this case.

65. The complainant is seeking information which would identify whether the council's actions resulted in liability for the damage to his property. The Commissioner accepts the council's argument that the interests in play within this case relate primarily to the private interests of the complainant. However, she recognises that there are wider public interest arguments towards a disclosure of information of this type where the actions of a public authority may have led to damage being caused to a private citizens property. That being said, it is not for the Commissioner to make a judgement on liability.

66. The Commissioner recognises the importance of the level playing field when litigation is in process. She considers that there is a strong public interest in maintaining the integrity of that process, as managed by the relevant court.

67. The complainant's request for information came shortly after the council had rebutted the claim for liability. There was therefore a strong potential that litigation would follow on within a short period of time – in effect, the process of resolving the claim was at a pause, but there was a strong possibility of a formal claim before the courts being made, and the CPR rules would then come into play. This is still a possibility in this case. There is therefore an alternative access regime to the information via disclosure under the CPR. The CPR provides that access where a claim has been made to the courts.

68. The Commissioner notes that the courts manage the disclosure of information relevant to such cases, and that a disclosure of information prior to a claim being made to the courts would undermine its ability to

manage the disclosure of relevant information. It would also undermine the current level playing field in the court proceedings.

69. The Commissioner therefore considers that the public interest in maintaining the exception is strong in this instance. She has not identified any opposing factors, such as clear evidence of unlawful activity or negligence on the part of the council, and it is not her role to make a judgement on the complainant's claims of liability. That is the role of the courts.

70. The Commissioner acknowledges that the complainant has a legitimate personal interest in accessing this information, however, the public interest in this context relates to the broader public interest in relation to the course of justice. She considers that the public interest in protecting the course of justice outweighs the private interests of the complainant in this case.

71. The Commissioner has concluded that, in all the circumstances of the case, the public interest in maintaining the exception outweighs the public interest in disclosure of the withheld information.

Regulation 12(4)(e)- Internal Communications

72. Regulation 12(4)(e) provides that a public authority may refuse to disclose information to the extent that the request involves the disclosure of internal communications.

73. The council has applied Regulation 12(4)(e) to its internal communications regarding the litigation claim.

74. The council said that the documents were created solely for the purpose of considering and dealing with the claim brought by the complainant. It argues that there is an expectation within the CPR that these communications will be held in confidence.

75. It said that, whilst it notes an argument that this exception may not be required given the passage of time, and as the claim has been repudiated, the applicant can still issue proceedings in the County Court to determine liability, and as such it considers that this is still a 'live' matter.

The Commissioner's analysis

76. The Commissioner has considered the information withheld under this exception. Regulation 12(4)(e) is a class-based exception. If the withheld information falls within the class of information subject to the

exception, then the exception is engaged. The council does not need to demonstrate that any prejudice will occur if the information is disclosed in order for the exception to be engaged. Any prejudice can however be taken into account in the public interest test under Regulation 12(1).

77. Having considered the information withheld by the council under Regulation 12(4)(e), the Commissioner is satisfied that the information consists of correspondence and discussions between officers of the council. The Commissioner is therefore satisfied that the information engages the exception.

The public interest test

78. The Commissioner must therefore go on to consider the public interest test as set out in Regulation 12(1). In doing so, she has taken into account the presumption towards disclosure set out in Regulation 12(2).

79. As noted above, the test, set out in Regulation 12(1)(b) is whether, in all the circumstances of the case, the public interest in maintaining the exception outweighs the public interest in disclosing the information.

The public interest in the disclosure of the information

80. The Commissioner has taken into account the public interest factors in the disclosure of the information which she has already considered under her analysis of Regulations 12(5)(b).

The public interest in the exception being maintained.

81. The council argues that the information it withheld under this exception solely relates to the complainant's liability claim, and that the expectation under the CPR is such communications are confidential.

82. Its arguments therefore follow along similar lines to those considered above; the protection of its position prior to the case being taken to court, and the protection of the courts ability to manage to the disclosure of information under the CPR rules on a fair basis.

The Commissioner's conclusion

83. The Commissioner has considered the councils arguments, together with the information withheld under Regulation 12(4)(e).

84. The communications falling within the scope of the complainant's request relate to the complainant's claim for damages, and discussions surrounding the allegations he has made regarding fault. The information therefore falls within the scope of information which would be relevant to be considered within any court case which the

complainant takes forward regarding damages to his property from the alleged runoff from the pavement.

85. She is therefore satisfied that, as it is relevant to the issue of liability, the council's arguments are correct in that it would be considered for disclosure under the CPR rules should the complainant make a claim to the courts against it.

86. The affect of such a disclosure, particularly a disclosure whilst the case still has the potential to end up in the courts, is that council staff would feel dissuaded from being full and frank in their discussions in the future in order to prevent information which could hinder the defence of a claim made against the council. This is the so-called 'chilling effect' argument.

87. There is a public interest in the council being able to discuss legal claims being made against them in a full and frank fashion, free from the public eye. This is in order that legal claims can be properly discussed, and the merits and any weaknesses in the council's position can properly be assessed before a decision is made as to whether the council is liable or not.

88. If a chilling effect of this nature were to occur, then any weaknesses may be excluded from discussions and officers' reports in the future. Officer's may not want to risk the potential of weakening the council's legal position should the information be disclosed in response to an EIR request. This risks council decisions on claims being made on a less informed basis.

89. Again, the Commissioner notes that access to information relevant to any court case would be accessible under the CPR rules if a claim were to be made.

90. For this reason, and taking into account her consideration as regards the information falling within the scope of Regulation 12(4)(b), she considers that the public interest in the exception being maintained outweighs that in the information being disclosed in this instance.

91. The Commissioner has therefore decided that the council was correct to apply Regulation 12(4)(e) to withhold the information.

Regulation 12(4)(a) - information not held

92. The complainant argues that further information should be held by the council.

93. The relevant exception with the EIR for information which is not held at the time that a request is received is Regulation 12(4)(a).

94. In scenarios such as this one, where there is some dispute between the public authority and the complainant about the amount of information that may be held, the Commissioner, following the lead of a number of First Tier Tribunal decisions, applies the civil standard of the balance of probabilities.

95. For clarity, the Commissioner is not expected to prove categorically whether the information is held, she is only required to make a judgement on whether the information is held on the civil standard of the balance of probabilities.

96. In deciding where the balance of probabilities lies, the Commissioner will consider the complainant's evidence and arguments. She will also consider the searches carried out by the public authority, in terms of the extent of the searches, the quality of the searches, their thoroughness and the results the searches yielded. In addition, she will consider any other information or explanation offered by the public authority which is relevant to her determination.

97. During the course of her investigation, the Commissioner asked the council to describe the searches it carried out for information falling within the scope of the request, and the search terms used. She also asked other questions, as is her usual practice, relating to how it established whether it held further information within the scope of the request.

The council's position

98. The council said that its records would be held as a mix of manual and electronic records. It said that inspection reports are held in a paper format, but enquiries are electronic, and the works order system is electronic for completion by date reference.

99. It confirmed that a search was conducted for records/correspondence in team folders within its highways maintenance service area. It said that electronic recorded records are collated by the highway's maintenance team. However, inspection reports are paper copies. The highways maintenance team therefore coordinated with the council's business support service to assist with the location and retrieval of the relevant information.

100. It searched within folders containing old scheme plans etc, enquiries system and, in addition, a search was conducted of the team and one other relevant individual's mailboxes to ensure that the council has located all possible records. As a result, it found 3 further photographs on the account of an officer who no longer works within the department. He had left prior to transferring these to the relevant records folder. It confirmed that the council has disclosed copies of these to the complainant.

101. It said that inspection records are filed in a locked cupboard at the council's depot for the current, and previous financial year. Any records before that are scanned and stored electronically.

102. It said that at the time of initially responding, no staff consultations were held, but there was frequent correspondence between relevant service areas and the information governance team to clarify what information was held.

103. It said that the search parameters for the records found used the address and the applicants name and email address.

104. It clarified that the council does not store information locally on personal computers or other devices. Laptops are accessed and information saved/stored through the council's main servers.

105. It said that no relevant highway maintenance records have been deleted or destroyed, as all inspection reports are held by the council for 21 years as per highways maintenance legislation; the *Street Works Code of Practice*. Also, all relevant correspondence with insurance service area is stored in a folder with access limited to the relevant officers. It confirmed that no records have been deleted or destroyed.

106. It explained that the level of information which the complainant suggests should be held would not be held by it.

The complainant's position

107. The complainant argues that further information should be held by the council and, as noted above, has provided examples of the information which he considers should be held.

108. He pointed out that the council's responses do not include all of the communication records, that it has not provided any findings either, official or unofficial from the visits of council officers to his property, that it has not provided reports for the three inspections which were carried our, and that it has not disclosed email chains or records, or copies of any inspection reports which it has provided to its insurers.

The Commissioner's conclusions

109. The Commissioner is required to establish, on a balance of probabilities, whether any further information *is* held which falls within the scope of the complainant's request for information.

110. If the council has carried out appropriate searches of the appropriate areas within its records, then, unless there is evidence to the contrary, she will accept the council's decision that no further information is held on the basis of the searches it has carried out.

111. It should be noted that some of the information which the complainant argues should be held falls within the scope of the information withheld under the other exceptions applied. The Commissioner has taken this into account in her decision as regards the application of Regulation 12(4)(a).

112. Having considered both the arguments of the council, and of the complainant in this instance, the Commissioner is satisfied that the council has carried out adequate and appropriate searches of the relevant areas of the council in order to locate the requested information.

113. Taking into account the information already identified and withheld under the exceptions highlighted above, the Commissioner is therefore satisfied that, on a balance of probabilities, no further information is held falling within the scope of the complainant's requests for information.

Regulation 5(2)

114. Regulation 5(2) requires that, subject exceptions and qualifications being applied, information shall be made available as soon as possible and no later than 20 working days after the date of receipt of the request.

115. The complainant made his request for information on 18 May 2020.

116. The council did not however provide its response, together with some of the information it holds until 10 September 2020.

117. The council did not therefore comply with the requirements of Regulation 5(2)

Right of appeal

118. 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

119. 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.

120. 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 ……

Andrew White
Head of FoI Casework and Appeals
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF