

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

Date: 9 December 2024

Public Authority: Stratford-on-Avon District Council
Address: Elizabeth House
Church Street
Stratford-upon-Avon
Warwickshire
CV37 6HX

Decision (including any steps ordered)

1. The complainant has requested information relating to a planning enforcement dispute he was engaged in with Stratford-on-Avon District Council ("the Council"). The Council disclosed some information, but it withheld some information, under regulations 12(4)(e) (Internal communications), 12(5)(b) (Course of justice etc) and 12(5)(f) (Adverse affect to the interests of the provider) of the EIR. The complainant disagreed with the application of the exceptions and he also considered that not all of the information falling within scope of the request had been identified and disclosed to him.
2. The Commissioner's decision is that, at the time of the request, the Council was entitled to rely on regulations 12(5)(b) and 12(5)(f) to withhold the information. He also finds that, on the balance of probabilities, the Council has disclosed all the information it held in respect of point (6) of the request.
3. The Commissioner does not require further steps as a result of this decision.

Background

4. The complainant has been in dispute with the Council about the permitted use of his land and property for many years. He has made several information requests on the subject, dating back to 2019. The request in this case relates to the Council's recent enforcement investigation into the alleged change of use of his land.
5. On 29 February 2024, the Council issued an Enforcement Notice, requiring the complainant to cease such use of his land and to remove associated buildings.
6. The complainant appealed the Enforcement Notice. He also commenced judicial review proceedings in relation to the lawfulness of the Enforcement Notice.
7. A copy of the Council's "Decision to Take Action" report which underpinned the Enforcement Notice, was disclosed to him as part of judicial review proceedings, on 28 March 2024.
8. As part of the Enforcement Notice appeal proceedings, on 26 July 2024, the Council complied with the following Direction:

"By 30th July 2024 the LPA [Local Planning Authority] shall provide the appellant with copies of any notes, plans or photographs taken or produced in connection with site visits for enforcement investigation purposes concerning the appeal site".
9. The complainant was provided with a substantial amount of the information which is covered by the EIR request under investigation here, albeit this was outside of the EIR. Further information was disclosed in August 2024, also outside the remit of the EIR.
10. In September 2024, the Planning Inspectorate held an inquiry into the complainant's appeal. It allowed the appeal and the Council's Enforcement Notice was quashed.
11. In view of the quashing of the Enforcement Notice, the complainant and the Council agreed for the judicial review proceedings to be withdrawn.

Request and response

12. On 26 January 2024, referring to the Council's response to previous requests for information he had made, the complainant requested information in the following terms:

"I have set out below a list of the information that still needs to be provided...

1. It is known that [name A, redacted] visited the site on more than 1 occasion but there is only mention of a single visit. There is also no correspondence relating to any visit other than on the 10.09.07. There appear to be no notes or photographs from any of these site visits which seems highly unusual. Please confirm that none exist or that they are covered by an exemption referred to and please explain why this would be the case. In relation to photographs for example it is noted photographs are referred to in [A]'s email to [name B, redacted] dated 21.01.07.
2. The emails and other documents also disclose various discussions between various officers within the council. There are few if any internal notes relating to these discussions (or otherwise). As with the notes of the site visits there must be some notes of such discussions. Please again confirm if that is correct or if all such notes are covered by an exemption.
3. [A]'s letter to Messrs [names redacted] of 26th June 2008 refer to the council have "records" showing the domestic curtilage of the property, but the documents referred to in the letter are not included in the disclosure as is suggested by the letter) [sic]. Similarly in relation to [A]'s letter of 22.10.07 reference is made to a "confirmation of an agreed domestic curtilage". That would seem to be pertinent to this request but is not disclosed. It is hard to see how this could be covered by an exemption since it has been specifically referred to by [A].
4. On several occasions reference is made to an Enforcement Notice being prepared. Please confirm that no drafts of that notice or notices exist and that there are no reports to committee seeking authorisation for service of such a notice or that they do exist but are exempted.
5. A reference is made to a complaint in relation to an alleged breach of planning control but that [sic] this has not been provided due to a need to protect the complainant's identity. It is normally possible to redact any such complaint to avoid that happening.
6. Application for a CLEUD [Certificate of Lawfulness of Existing Use or Development] [reference number redacted]. The Council has not provided an officer's report or any reasoned explanation as to why the application was refused, in terms of reviewing the evidence submitted in support and more particularly any evidence submitted in response."
13. The Council responded on 16 February 2024, following the complainant's numbering, as follows:

1. It confirmed it held notes of site visits and photographs, but as the information related to a live enforcement case it was withheld under regulation 12(5)(b) (Course of justice etc).
 2. It confirmed that it held relevant information, but as the information related to a live enforcement case it was withheld under regulation 12(5)(b). It said that regulation 12(4)(e) (Internal communications) also applied to this information.
 3. It said the information had been disclosed on 6 February 2024.
 4. It confirmed that it held relevant information, but as the information related to a live enforcement case it was withheld under regulation 12(5)(b). It said that regulation 12(4)(e) also applied to this information.
 5. It said some of the information was shared by an individual in connection with an enforcement investigation, and was withheld under exception 12(5)(f) (Adverse affect to the interests of the provider).
 6. It said the information had been disclosed on 29 January 2024.
14. The complainant requested an internal review on 20 February 2024, as follows:
1. He disagreed that regulation 12(5)(b) was engaged and argued there was no current live enforcement action underway.
 2. He disagreed that regulation 12(5)(b) and regulation 12(4)(e) were engaged, reiterating that there was no current live enforcement action underway and the Council had not shown how any safe space would be adversely impacted.
 3. Not contested.
 4. He said if there were draft Enforcement Notices which relate to previous concluded issues, these could not fall within the exception at 12(5). He again argued that there was no live enforcement action underway.
 5. He disagreed with the application of exception 12(5)(f), arguing that it should be possible to disclose at least a redacted version.
 6. He accepted that a report had been published, but believed that "underlying substantiating documents (e.g. email from a person within the Parish Council or email from Cllr. [name redacted]) from which these notes have been made" should also have been disclosed in order to comply with the request.
15. The Council provided the outcome of the internal review on 8 April 2024, as follows:
1. It maintained that the exceptions had been correctly applied, but it disclosed some photographs which did not relate to live enforcement matters.

2. It maintained its decision to apply regulations 12(5)(b) and 12(4)(e).
4. It clarified that there were no draft Enforcement Notices or associated decisions to take formal action relating to previous enforcement cases.
5. It maintained its decision to apply regulation 12(5)(f).
6. It said all the information from the file had been provided and that there was no other information available from the Parish or Councillor on the planning file.

Scope of the case

16. The complainant contacted the Commissioner on 30 May 2024 to complain about the way his request for information had been handled. He disagreed with the application of regulations 12(4)(e), 12(5)(b) and 12(5)(f) to withhold information. He also questioned whether all information falling in scope had been identified. He argued that he had been deprived of access to material which could, potentially, have assisted him in making an application for a CLEUD and representations to the Council to try to persuade it not to issue an Enforcement Notice.
17. During the Commissioner's investigation, the Council confirmed that an Enforcement Notice had been issued and appealed by the complainant, and judicial review proceedings commenced. It informed the Commissioner of the following disclosures made in connection with those proceedings (as referenced in paragraphs 7-9, above):
 1. All site visit notes and photographs.
 2. Internal emails with Revenues and an internal officer's report.
 4. The "Decision to Take Action" report relating to the Enforcement Notice.
 5. Complaints received about the land use (with complainants' details redacted)
 6. It reiterated that a report detailing the reasons for the refusal had been disclosed in January 2024.
18. Although the above disclosures were made outside of the EIR regime, they appeared to contain much of the information the complainant had requested. In view of this, the Commissioner asked the complainant whether he wished to withdraw his complaint.
19. The complainant declined, expressing dissatisfaction with the information disclosed to him during the above process. He argued that not all the information he was entitled to receive had been disclosed by

the Council. He also argued that, in view of this disclosure, its earlier refusal to disclose information under the EIR must have been unlawful.

20. The Commissioner notes that the recent disclosures were made in the context of the enforcement appeal and judicial review proceedings, and not by way of a formal response under the EIR. He is therefore unable to consider any claim that the Council did not provide full disclosure in that context, as it falls outside his remit. Any concerns in that regard should be pursued with the relevant authority responsible for the appeal.
21. As regards the complainant's argument that the Council acted unlawfully by withholding information which it later disclosed during the above proceedings, a public authority may cite EIR exceptions to refuse to disclose information to the world at large, whilst making restricted disclosures, in accordance with the requirements of other proceedings, and this will not render the prior EIR refusal as 'unlawful'.
22. In light of the above, the analysis below considers the Council's application of the cited exceptions in respect of parts (1), (2), (4) and (5) of the request. The Commissioner has also considered whether the Council identified and located all the information it holds falling within scope of part (6) of the request, under regulation 12(4)(a) of the EIR.
23. Following the decision of the Upper Tribunal in *Montague*¹, the Commissioner will consider matters as they stood at the date the Council was responding to the request, on 16 February 2024; he has considered whether, **at that point**, its handling of the request was correct. Any disclosures that took place later, during the enforcement appeal and judicial review process, therefore have no bearing on this assessment.

¹https://assets.publishing.service.gov.uk/media/6273a6ec8fa8f57a41d53ee9/UA_2020_000324_000325_GIA.pdf

Reasons for decision

Is the requested information environmental?

24. If information falls within the definition of “environmental information” at regulation 2(1) of the EIR, any request for it must be considered under the EIR.

25. Regulation 2(1)(c) of the EIR applies to information on:

“...measures (including administrative measures), such as policies, legislation, plans, programmes, environmental agreements, and activities affecting or likely to affect the elements and factors referred to in (a)...as well as measures or activities designed to protect those elements”.

26. As the requested information relates to planning and land use, the Commissioner considers that the requested information is information on measures (regulation 2(1)(c)) as they affect the elements of the environment. He has therefore assessed this case under the EIR.

Regulation 12(4)(a) – Information not held

27. Regulation 5(1) of the EIR requires a public authority that holds environmental information to make it available on request.

28. Regulation 12(4)(a) allows a public authority to refuse to provide the requested information if it does not hold it at the time the request was received.

29. The complainant does not believe that the Council has identified and disclosed all the information it holds in respect of part (6) of the request. He agrees that the report referred to in his request was disclosed on 29 January 2024, but he believes that the Council holds the underlying reasoning behind that report, which he says it has not disclosed.

30. In cases where a dispute arises over the extent of the information held by a public authority, the Commissioner will take account of a number of factors when considering whether the information is, or is not, held, including:

- any evidence or arguments provided by the complainant;
- any searches carried out by the authority to check whether the information is held;
- any reasons offered by the public authority to explain why it knows the information is not held; and

- any reason why it is inherently likely or unlikely that information is held.
31. The Commissioner is not expected to prove beyond reasonable doubt that a public authority does, or does not, hold information. When determining a complaint, the Commissioner makes a decision based on the civil standard of the 'balance of probabilities' – that is, more likely than not.
 32. The Council told the Commissioner that all information relating to enforcement cases (live, closed and historic ones) is held on two electronic systems: 'Uniform' (a database) and 'EDMS' (a document management system). It said that the Council no longer keeps paper files for enforcement cases. All historic paper files have been scanned onto EDMS.
 33. It explained that all notes and correspondence on both systems was searched when responding to the complainant's requests for information and information was either disclosed or properly withheld, with exceptions cited. The Planning Manager's email account was also searched (as they were the lead officer in the enforcement team dealing with the matter and had dealt with previous requests for information relating to the same site). The Council's witness for the public inquiry was also consulted.
 34. The same sources were searched prior to the public inquiry into the Enforcement Notice, with the information being specifically disclosed to the complainant and the Planning Inspectorate; this was not a disclosure to the public under the EIR.
 35. The Council was satisfied that it had identified and located all relevant information that it held, when responding under the EIR, and that the information had either been disclosed or properly withheld under the cited exceptions.
 36. The Council also provided the Commissioner with a copy of its letter to the Planning Inspectorate, regarding the complainant's request for disclosure prior to the enforcement inquiry. The letter noted:

"These attempts have previously included multiple overlapping Subject Access Requests and Environmental Information Requests...the Appellant is repeating requests for information that has already been provided, or where the non-existence of documents has already been confirmed."
 37. It also confirmed that an individual named by the complainant in his complaint to the Commissioner, had not generated any further information (ie notes, plans or photographs) which fell within the scope of the request.

38. The Commissioner finds the submissions provided by the Council, as summarised above, to sufficiently explain the searches it has conducted and why it was satisfied that it had located all relevant information it holds falling within scope of the request.
39. It is further noted that, in his complaint to the Commissioner, the complainant indicated that he knew the Council did not hold copies of certain information. He said:
- “[the complainant] knows that [officer’s name, redacted] sent relevant emails and that Stratford does not have access to them because [Planning Manager’s name, redacted] requested that [the complainant] provide copies to her.”
40. The Commissioner’s duty here is to decide whether the request for information has been dealt with in accordance with the requirements of regulation 5(1) of the EIR. It is not the Commissioner’s role to make a ruling on what information the public authority **should** hold. Rather, he is concerned with the disclosure of the information that it **does** hold. In a case such as this, the Commissioner’s role is simply to decide whether, on the balance of probabilities, a public authority holds the requested information.
41. Based on the evidence available to him, and mindful that it is not in dispute that the report described in the request has been disclosed, the Commissioner finds that, on the balance of probabilities, the Council does not hold any further information falling within the scope of point (6) of the request.
42. When considering the public interest test, the Commissioner can only find that the public interest in maintaining the exception at 12(4)(a) of the EIR outweighs any public interest in disclosure, simply because the information is not held.
43. The Commissioner is therefore satisfied that regulation 12(4)(a) applies in this case.

Regulation 12(5)(b) – The course of justice

44. The Council applied regulation 12(5)(b) to withhold information in respect of point (1) (notes of site visits and photographs), point (2) (internal notes relating to discussions between officers) and point (4) (the ‘Decision to Take Action’ report).
45. Regulation 12(5)(b) provides that a public authority may refuse to disclose information to the extent that its disclosure would adversely affect 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.

46. The threshold for establishing 'adverse effect' is a high one, since it is necessary to establish that disclosure would have an adverse effect. 'Would' means that it is more probable than not; that is, a more than 50% chance that the adverse effect would occur if the information was disclosed. If there is a less than 50% chance of the adverse effect occurring, then the exception is not engaged.
47. The 'course of justice' element of this exception is very wide in coverage and, as set out in the Commissioner's guidance on regulation 12(5)(b), encompasses, amongst other types of information, information about planning decisions and to planning enforcement activities. It also covers material covered by legal professional privilege ('LPP')².
48. The Council explained that, at the time of the request, the withheld information related to particular enforcement investigations. The Council was also considering whether to take formal action regarding other, associated matters, potentially of a criminal nature. It clarified to the Commissioner what those matters were.
49. The Council referred the Commissioner to the First-tier Tribunal decision EA/2018/0123³, where access had been requested to correspondence and notes on a planning Enforcement Notice, which also involved the consideration of a potential criminal offence. The Tribunal found in that case that disclosure would potentially affect the Council's ability to conduct inquiries about the matter, and the course of justice more generally.
50. The Council also referred the Commissioner to his decision in FS50301488⁴ which found that the disclosure of information gathered by Ofcom during a live investigation involving criminal matters, would adversely affect its ability to continue to conduct the investigation. This was especially because of the 'live' nature of the subject matter and the risk of revealing information about its investigation strategy.
51. The Council also said that some of the above information also comprised internal communications with its legal advisers, which attracted LPP. However, it did not provide supporting arguments to the Commissioner which showed that the information met the criteria for LPP, or that the

² <https://ico.org.uk/for-organisations/foi/freedom-of-information-and-environmental-information-regulations/regulation-12-5-b-the-course-of-justice-and-inquiries-exception/>

³ <https://informationrights.decisions.tribunals.gov.uk/DBFiles/Decision/i2429/018%20100519%20-%20Vaudry,%20Robert%20EA.2018.0123.pdf>

⁴ https://ico.org.uk/media/action-weve-taken/decision-notices/2011/587440/fs_50301488.pdf

confidentiality of the information had not been waived, so the Commissioner has not considered this claim further.

52. Nevertheless, having regard to the Council's arguments on the adverse affect to its enforcement investigations, the nature of the withheld information and the subject matter of this request, the Commissioner is satisfied that disclosure of this information would have an adverse effect on the course of justice and, therefore, he finds that the exception at regulation 12(5)(b) is engaged in that regard.

Public interest test

53. Regulation 12(5)(b) is a qualified exception and the Commissioner has considered the balance of the public interest to determine whether it favours the disclosure of the information, or favours the exception being maintained.

Public interest arguments in favour of disclosure

54. Regulation 12(2) of the EIR requires a public authority to apply a presumption in favour of disclosure when relying on any of the regulation 12 exceptions, which adds weight in favour of environmental information being disclosed in response to an EIR request.

55. In his internal review request, the complainant argued:

"The exemption can only be relied upon if the public interest in maintaining the exemption outweighs the public interest. In the case of *Vaudry v ICO* [EA/2018/0123] it was made clear that:

- i. There is a general public interest in openness and transparency as to how public authorities carry out their functions, and this includes planning control and enforcement action by the Council.
- ii. There is a more specific public interest in understanding how a particular matter has been dealt with and why a particular approach has been taken to a planning matter, both in relation to that specific matter and how that may inform planning decisions generally, and in ensuring that the Council is dealing fairly, and in accordance with its own policies, with FOIA/EIR requests.

These principles appear to have been disregarded by the Council."

56. The Council acknowledged the public interest in transparency and accountability surrounding the enforcement decision making process.

Public interest arguments in favour of maintaining the exception

57. The Council said that the disclosure of the withheld information at the time of the request (ie prior to the Enforcement Notice being issued)

would have prejudiced the safe space for the preparation of formal action. In order for the Council to be able to investigate alleged planning breaches, seek advice, and in order to ensure those individuals who are subject to potential enforcement action are dealt with fairly and justly, it requires a confidential space in which to consider its evidence and discuss proposed actions.

The balance of the public interest

58. The Commissioner considers that openness and transparency by public authorities is, in itself, to be regarded as something which is in the public interest. The disclosure of official information can assist the public's understanding of how public authorities make their decisions and carry out their functions, and this, in turn, fosters accountability and public trust in them. The question to be considered here is whether the public interest is better served by permitting such public scrutiny, or by protecting the Council's ability to properly consider, and take, formal enforcement action.
59. The Commissioner acknowledges the complainant's view that there is a public interest in disclosing information on decisions relating to land use and planning enforcement, particularly as he disagrees with the Council's decision to take enforcement action against him. However, this has to be weighed against the very strong public interest arguments in favour of ensuring that the Council's enforcement investigations and proceedings are not prejudiced or adversely affected through a disclosure of its advice and internal communications. Its preparation to continue its enforcement action would be undermined, as its planning for such an occurrence would become 'open' to the public as well as to the complainant.
60. There is a strong public interest in protecting the Council's ability to be able to seek advice and to discuss the merits of different options as regards enforcement, away from the public eye. Disclosure of the information risks its legal case being undermined by its deliberations being disclosed prematurely to the other party, and to the wider public, prior to enforcement taking place.
61. A weakening of the confidence that parties have, ie that advice, communications and deliberations will remain confidential whilst enforcement preparation is ongoing, would undermine the ability of officers to seek advice, consider options and conduct investigations appropriately in the future. The disclosure of discussions during the course of the enforcement process would also potentially undermine the Council's position, and risks a chilling effect in such cases in the future.
62. Having regard to all the facts of the case, and having viewed the withheld information, the Commissioner is not aware of any public

interest arguments that are sufficient to outweigh or override the public interest in the exception being maintained. The Commissioner has therefore decided that the balance of public interest lies in withholding the information requested in points (1), (2) and (4) of the request and in protecting the Council's ability to prepare to take forward its enforcement case without fear that a premature disclosure of its arguments would undermine or disrupt this.

63. Regulation 12(2) of the EIR requires a public authority to apply a presumption in favour of disclosure when relying on any of the regulation 12 exceptions. As stated above, in this case, the Commissioner's view is that the balance of the public interests favours the maintenance of the exception, rather than being equally balanced.
64. This means that the Commissioner's decision, whilst informed by the presumption provided for in regulation 12(2), is that the exception provided by regulation 12(5)(b) was applied correctly.
65. In view of his decision that the Council was entitled to rely on regulation 12(5)(b) to withhold the information it holds in respect of points (2) and (4) of the request, the Commissioner does not deem it necessary to consider whether the Council was also entitled to apply regulation 12(4)(e) to withhold the same information.

Regulation 12(5)(f) – Adversely affect the interests of the provider of the information

66. The Council withheld information in respect of point (5), regarding complaints the Council had received about the complainant's property.

67. Regulation 12(5)(f) of the EIR states that:

"a public authority may refuse to disclose information to the extent that its disclosure would adversely affect –

f) the interests of the person who provided the information where that person –

(i) was not under, and could not have been put under, any legal obligation to supply it to that or any other public authority;

(ii) did not supply it in circumstances such that that or any other public authority is entitled apart from these Regulations to disclose it; and

(iii) has not consented to its disclosure;"

68. As with all the regulation 12(5) exceptions, the Commissioner considers that, in order to demonstrate that disclosure "would adversely affect"

the provider's interests, a public authority must demonstrate that the adverse effect is more likely than not to occur.

69. The Commissioner's published guidance on this exception explains that its purpose is to protect the voluntary supply to public authorities of information that might not otherwise be made available to them⁵. In such circumstances a public authority may refuse disclosure when it would adversely affect the interests of the information provider. The wording of the exception makes it clear that the adverse effect has to be to the person or organisation providing the information rather than to the public authority that holds it.
70. The Council has confirmed that the withheld information comprised complaints submitted to it on a voluntary basis about the complainant's property. Some of the complaints go back a number of years. The Council said that, at the time the complaints were made, the complainants were advised that their correspondence would be kept confidential and not released to any other parties. It said that contact had not been made with complainants for the historic cases, but more recent complainant(s) had confirmed that they did not want their identity to be disclosed.
71. The Commissioner is satisfied that the Council has shown that the three stages of the test at paragraph 67 have been met.
72. As regards whether disclosure would adversely affect the interests of the person who provided the information, the Council said that, if disclosed, there would be detriment to the providers' relationship with the complainant. It noted that there is genuine concern among members of the public that their safety and privacy would be compromised if the details of complaints they make to the Council about other residents became publicly known.
73. The Commissioner has little difficulty accepting that complainants have an expectation of confidentiality regarding planning complaints they make about people in their local area.
74. The complainant has suggested that this could be addressed by the complainants' names and contact details being redacted from the information.

⁵ https://ico.org.uk/media/for-organisations/documents/1638/eir_voluntary_supply_of_information_regulation.pdf

75. The Commissioner accepts that the individuals may not be **directly** identifiable from the information if name and contact details are removed. However, the Commissioner also believes that given the context (ie a neighbourhood planning and land use dispute in a relatively small area) and the specific nature of the complaints, disclosure of them may nevertheless enable particular individuals to be identified. The Commissioner accepts that this would plausibly result in those individuals being (or believing they were) the subject of unwanted attention and invasion of their privacy (actual or imagined) and moreover would undermine the implied confidentiality between the Council and the individuals. As result, the Commissioner is satisfied that disclosure of the complaints would adversely affect the interests of those who made them.

Public interest test

76. As set out above, regulation 12(2) of the EIR requires a public authority to apply a presumption in favour of disclosure when relying on any of the regulation 12 exceptions.

Public interest arguments in favour of disclosure

77. The complainant did not offer specific arguments; however, the Commissioner has taken account of the views expressed in paragraph 55, above.
78. The Council noted the general presumption in favour of disclosure under the EIR and also the general public interest regarding transparency in the exercise of local government functions.

Public interest arguments in favour of maintaining the exception

79. The Council said:

"For enforcement breaches the Local Planning Authority relies on complainants [sic] being made voluntarily as they are often the only persons who have direct knowledge of an activity that might be a breach of planning control. If complainants' details were made public and disclosed it is unlikely that any members of public would continue to report alleged breaches of planning control. This would seriously undermine the effectiveness of the planning enforcement system...There is genuine concern from parties who make complaints about enforcement breaches of this nature that they will be subject of intimidation if their identity and comments are disclosed."

Balance of the public interest

80. The Commissioner agrees that it is important for the Council to be transparent about the basis on which it takes enforcement action.

Disclosure of the complaints it received about the complainant's property would provide the public with an insight into the issues considered by the Council.

81. Nevertheless, the Commissioner accepts that the public interest arguments in favour of maintaining the exception identified by the Council attract significant weight. The adverse effects on complainants include compromising their privacy, causing them anxiety and distress and deterring them from making future complaints, which might be on entirely justifiable grounds. He considers that there is a strong public interest in avoiding these adverse effects, and in those individuals (and individuals in the future) being able to trust that the Council will respect the confidentiality of the information they provide to it. He also considers that there is a strong public interest in maintaining the free flow of information that enables the Council to carry out its regulatory and statutory functions effectively.
82. In view of the above, whilst the Commissioner has been informed by the presumption in favour of disclosure under the EIR, he is satisfied that, on balance and for the reasons given above, the exception at regulation 12(5)(f) has been applied correctly.

Right of appeal

83. 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

84. 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.
85. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Samantha Bracegirdle
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF