

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 8 April 2025

Public Authority: Oxford Direct Services Limited (ODSL)
Address: St Aldates Chambers
109 St Aldates
Oxford
OX1 1DS

Decision (including any steps ordered)

1. The complainant has requested information from Oxford Direct Services Limited ("ODSL") about the construction of specific houses. ODSL provided some information, stated that some was not held, and withheld some under section 43(2) (Commercial interests) of the Freedom of Information Act 2000 ("the FOIA"). During the course of investigation, the Commissioner identified that the request sought information that was environmental and therefore invited ODSL to reconsider the withheld information under the terms of the Environmental Information Regulations 2004 ("the EIR") rather than FOIA. ODSL confirmed that it now sought to withhold the information under regulation 12(5)(e) (Confidentiality of commercial or industrial information) of the EIR.
2. The Commissioner's decision is that, besides the information so far disclosed, and the withheld information considered in this decision, no further information is held by ODSL. In respect of the withheld information, the Commissioner has found that ODSL is not entitled to withhold it under regulation 12(5)(e).
3. The Commissioner requires ODSL to take the following steps to ensure compliance with the legislation.
 - Disclose the withheld information, subject to any personal data being redacted in accordance with the Data Protection Act 2018.

4. ODSL must take these steps within 30 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

5. On 25 July 2024, the complainant wrote to ODSL and requested information in the following terms:

In a previous FOIA request, it was revealed the ODS Ltd was responsible for the construction of 3 newbuild terraced houses in Blackbird Leys:

https://www.whatdotheyknow.com/request/new_houses_built_2#incoming-2710425

Commencement: November 2022 Completion: April 2024.

15 months for the construction of 3 houses seems like a long time.

1. Who was the main contractor responsible for the construction of the 3 properties?
 2. Please provide progress reports detailing the progress of the project.
 3. Was any project management software used to plan schedule / planning? If so, please provide copies of reports.
 4. What was the total cost of construction for the 3 properties? If you refuse this information, it will be contested.
6. ODSL responded on 13 August 2025. It disclosed some information (in response to part 1 of the request) but indicated that the remaining sought information was not held by it but held instead by other parties.
 7. On 13 August 2024, the complainant asked for an internal review, on the basis that they believed some information was held by ODSL, such as progress reports and costing information.
 8. Following an internal review ODSL wrote to the complainant on 9 September 2024. It maintained that the majority of the sought information was not held by it, but that some ('ODSL costs') was withheld under the exemption provided by section 43(2) (Commercial interests) of FOIA.

Scope of the case

9. The complainant contacted the Commissioner on 13 September 2024 to complain about the way their request for information had been handled, and specifically that ODSL should provide the requested information.
10. During the course of investigation, the Commissioner identified that the request sought environmental information, as defined by [regulation 2\(1\) of the EIR](#).
11. Environmental information must be considered under the terms of the EIR, and not the FOIA.
12. ODSL confirmed that it therefore relied on regulation 12(5)(e) of the EIR to withhold the information previously withheld under section 43(2) of FOIA.
13. The Commissioner therefore considers that the scope of his investigation is:
 - Whether ODSL is correct to state that some of the requested information is not held; and,
 - Whether ODSL is entitled to withhold information under regulation 12(5)(e).

Reasons for decision

Regulation 5(1) - Duty to make available environmental information on request

Regulation 3(2)(b) – Information held by the public authority

14. This reasoning covers whether ODSL has identified and provided all information that would fall under the request, and which it holds for the purposes of the EIR. This includes any related information that is held by another person on behalf of ODSL.
15. Under regulation 5(1) of the EIR, a public authority must make environmental information available on request if it holds the information and it is not subject to an exception.
16. Regulation 3(2) of the EIR sets out the criteria for establishing if information is held for the purposes of the EIR:
 - (2) For the purposes of these Regulations, environmental information is held by a public authority if the information –

(a) is in the authority's possession and has been produced or received by the authority; or

(b) is held by another person on behalf of the public authority.

17. The Commissioner's interpretation of regulation 3(2)(b) is that information is held by a public authority under the terms of the EIR if it is held by another person (which means a legal person, and could be an individual or an organisation), for the public authority's own purposes.

The Commissioner's investigation

18. The request seeks information, including progress reports and costs, in respect of a building project. ODSL has stated that the majority of the requested information is not held by it but is instead held by Ridge LLP.
19. The Commissioner has questioned ODSL on the nature of its relationship with Ridge LLP, as well as any contract it has with it.
20. ODSL has explained to the Commissioner that it acted as the main contractor on the building of 3 houses. Its 'client' was OX Place (which is a company wholly owned by Oxford City Council), whilst Ridge LLP was a consultant to OX Place.
21. ODSL has stated that "ODSL and Ridge LLP do not have a direct contractual relationship. Ridge LLP is contracted by OX Place and acts as their consultant, providing specific consultancy services, which include compiling and maintaining progress reports. Ridge LLP holds the requested information for OX Place, not on behalf of ODSL. ODSL does not oversee or direct Ridge LLP's handling of this information."
22. ODSL has further explained that all project related information, including progress reports, would be held by Ridge LLP on behalf of OX Place, and not ODSL. ODSL has suggested that the request has been submitted to it in error, and that it should have been submitted to either Oxford City Council or OX Place.

The Commissioner's conclusion

23. The Commissioner understands that, in the context of this matter, ODSL is a contractor, and that it does not have, nor would expect to have, the majority of the requested information. Instead, any such information would be held by Ridge LLP, which is a consultant to OX Place.
24. The Commissioner further understands that there is no contractual relationship between ODSL and Ridge LLP, and that ODSL does not have any right to, or expect to have any right to, the information created by Ridge LLP.

25. There is no evidence available to the Commissioner that suggests this is incorrect.
26. Having considered the above, the Commissioner is satisfied that the majority of the information sought by the request is not held by ODSL.
27. There is therefore no indication that the Council holds further information beyond that so far disclosed, and the withheld information considered in this decision (below).

Regulation 12(5)(e) - Confidentiality of commercial or industrial information

28. This reasoning covers whether ODSL is entitled to rely on regulation 12(5)(e) to refuse to disclose information about costs.
29. The Commissioner notes that this information only relates to ODSL's costs. As found above, ODSL does not hold other information deriving from OX Place or Ridge LLP.

Is regulation 12(5)(e) engaged?

30. Information can be withheld under regulation 12(5)(e) of the EIR if disclosure would adversely affect the confidentiality of commercial or industrial information where such confidentiality is provided by law to protect a legitimate economic interest.
31. In the circumstances of this case, the Commissioner asked ODSL to provide its submissions for that information which it sought to withhold, as well as a copy of the withheld information.
32. ODSL provided a copy of the withheld information, which it described as a 'QL report'. The Commissioner understands that this relates to ODSL's costs relating to the project.
33. However, in providing its submissions on this exception, ODSL has seemingly focussed only on why information held by OX Place and Ridge LLP (such as progress reports) would be exempt from disclosure. Within its submissions it maintains that this information is not held by it (which the Commissioner has found to be correct – as detailed above in this decision).
34. Because ODSL has focussed on information held by OX Place and Ridge LLP, it has neglected to address that information which it does hold – the QL report.
35. Whilst the Commissioner perceives that this information represents financial information about ODSL's own costs, it is not appropriate for

the Commissioner to attempt to formulate arguments on ODSL's behalf on why the information may be exempt under regulation 12(5)(e), as part of which a public authority is required to demonstrate why its disclosure would cause an adverse effect.

36. In the absence of any relevant arguments from ODSL, the Commissioner cannot reasonably conclude that the exception is engaged.
37. Therefore, the Commissioner's decision is that ODSL has failed to demonstrate that regulation 12(5)(e) is engaged, and must disclose the information, subject to any personal data being redacted in accordance with the Data Protection Act 2018.

Right of appeal

38. 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

39. 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.
40. 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
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Water Lane
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