

Environmental Information Regulations 2004 (EIR) Decision notice

Date: 1 November 2022

Public Authority: Dover District Council

Address: freedomofinformation@dover.gov.uk

Decision (including any steps ordered)

1. The complainant has requested a copy of a handwritten letter sent to Dover District Council (the Council) about the addition of a conservatory to the complainant's property.
2. The Commissioner's decision is that the FOS has correctly relied upon regulation 13(2) of EIR to withhold the information.
3. The Commissioner does not require further steps.

Request and response

4. On 17 May 2022, the complainant wrote to the Council requesting information in the following terms:

"Copy of handwritten letter and printed letter given to building control falsely accusing us of having building works at our property...If not possible to see copies of those letters then at least have the address of other properties mentioned including ours"
5. On 26 May 2022, the Council responded and refused to provide it citing regulation 12(5)(b) EIR – course of justice, as its basis for doing so. Following an internal review, the Council maintained its position and in addition cited regulation 12(3) in accordance with regulation 13 – personal data.

Reasons for decision

6. Regulation 13(1) of EIR provides an exemption for information which is the personal data of an individual other than the applicant and if its disclosure would otherwise breach any of the data protection principles.
7. Information will be personal data if it relates to an identifiable living individual. If the letter was disclosed, even with the name redacted it is possible that the sender may be identifiable and therefore breach the Data Protection Act.
8. The Commissioner has a well established position in cases such as this¹, ² and therefore considers the Council is entitled to rely on regulation 13 to withhold a copy of the letter.

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

² <https://ico.org.uk/media/action-weve-taken/decision-notice/2022/4021326/ic-103967-f5s6.pdf>

Right of appeal

9. 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

10. 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.
11. 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

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