



Appeal number: EA/2019/0419P

**FIRST-TIER TRIBUNAL
GENERAL REGULATORY CHAMBER
INFORMATION RIGHTS**

JENNY PERRYMAN

Appellant

- and -

THE INFORMATION COMMISSIONER

Respondent

TRIBUNAL: JUDGE ALISON MCKENNA

Determined on the papers, the Tribunal sitting in Chambers on 5 & 6 May 2020

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MODE OF HEARING

1. This determination was conducted by a Judge, sitting alone. The Tribunal was satisfied that it was appropriate to compose the panel in this way, having regard to paragraph 6 (a) of the Senior President's Pilot Practice Direction dated 19 March

2020¹ and the desirability of determining all cases which are capable of determination by the most expeditious means possible during the pandemic.

2. The parties and the Tribunal agreed that this matter was suitable for determination on the papers in accordance with rule 32 Chamber's Procedure Rules.

3. The Tribunal considered an agreed open bundle of evidence comprising pages 1 to 174, plus additional papers including the Appellant's final written submissions. It also considered a closed bundle comprising five folders, amounting to around 1500 pages.

DECISION

4. The appeal is dismissed.

REASONS

Background to Appeal

1. This appeal concerns the Appellant's request for information under the Environmental Information Regulations 2004 ("EIRs")². Norfolk County Council planned to install an Energy from Waste Plant, but this plan was cancelled in 2014, following strong local opposition. It was then made public that the Council had paid the contractor £33.7 million in compensation for the termination of the contract.

2. The Appellant made a request to Norfolk County Council ("the Council") on 23 February 2018, in the following terms:

Please provide a copy of all correspondence (including all attachments and referenced documents) between Norfolk County Council and Defra between July 1st, 2011 and November 1st, 2011.

3. On 23 May 2018, the Council provided the Appellant with some information falling within the scope of the request, but redacted parts of it in reliance upon regulation 12 (3) and regulation 13 (1) of the EIRs.

4. On 13 June 2018, the Council provided the Appellant with some further information within the scope of her request, but again redacted parts of it in reliance upon regulation 12 (3) and regulation 13 (1) of the EIRs. The Appellant requested an internal review of the Council's decision to redact the disclosed information.

5. On informing the Appellant of the outcome of its internal review on 1 October 2018, the Council confirmed its decision to redact the information, explaining that its

¹ <https://www.judiciary.uk/publications/pilot-practice-direction-panel-composition-in-the-first-tier-tribunal-and-the-upper-tribunal/>

² <http://www.legislation.gov.uk/ukxi/2004/3391/contents/made>

redactions related to the names and contact details of individuals who were not responsible for policy development or decision-making in relation to the project.

6. The Appellant complained to the Information Commissioner about the Council's handling of her request, including its delay in responding to her, and the redactions it had made to the information she had received.

7. The Respondent issued Decision Notice FS50845050 on 2 October 2019, upholding the Council's decision to redact the disclosed information. The Respondent also found that the Council had breached the relevant time limits in respect of its disclosure of the requested information and by its delay in responding to the Appellant's request for an internal review. No steps were required to be taken.

8. The Decision Notice concluded that:

(a) The information requested was environmental so as to engage the EIRs as amended by the Data Protection Act 2018;

(b) The redacted information constituted third party personal data within the meaning of s. 3 (2) of the Data Protection Act 2018³ because it relates to an identified living individual;

(c) The relevant condition engaged was regulation 13 (2A) (a) of the EIRs, as amended by the Data Protection Act 2018, because the processing of the redacted data by its disclosure would contravene the data protection principles as set out in Article 5 GDPR, which requires personal data to be processed *lawfully, fairly and in a transparent manner in relation to the data subject*;

(d) The Appellant's challenge relates most closely to *Lawful processing* under Article 6 (1) (f) GDPR. This permits processing where it is *necessary for the purposes of the legitimate interests of ...a third party except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data...*

(e) Article 6 (1) (f) establishes a progressive tri-partite test. In considering, firstly, the *legitimate interest test*, it was concluded that there was a legitimate interest in transparency but that the considerable information already disclosed had met that legitimate interest. There was a relatively weak interest in the personal data, which would not add greatly to the public knowledge of what had occurred;

(f) Having established that there was some (albeit weak) legitimate interest in the personal data, the Decision Notice moves on to stage two and a consideration of whether disclosure was *necessary*. This is stated to

³ <http://www.legislation.gov.uk/ukpga/2018/12/enacted>

be a test of reasonable necessity and to involve the consideration of alternative means;

(g) It was concluded that disclosure of the personal data was not *necessary* to meet the legitimate interest in transparency. The chain of events was completely understandable from the disclosed material and it is the Council corporately which is accountable, rather than its officials. An exception has been made for the senior officers, who would expect to be identified;

(h) Having reached that conclusion on the second limb, it was not necessary to undertake the balancing exercise envisaged by the third and final limb of Article 6 (1) (f).

9. The Decision Notice noted that these events took place some time ago and that some of the named individuals had since left the Council's employ. Others were said by the Council to have stated they did not consent to the disclosure of their personal data. The Decision Notice noted the Council's claim that certain individuals previously named in connection with this matter have in the past received abuse and threats.

Appeal to the Tribunal

10. The Appellant's Notice of Appeal dated 11 November 2019 raises grounds relating to an alleged lack of fairness, lack of accuracy, lack of understanding, repeated use of incorrect assumptions and a reliance on claims and assurances without asking for evidence by the Information Commissioner's Office. She complained that the Decision Notice had inferred that she would herself harass the individuals named, which she stated to be an *unfounded and serious accusation*. The Appellant stated that the outcome she was seeking was disclosure of the redacted information and for the Commissioner to ensure that the Council took steps to address its non-compliance with statutory timescales and communications.

11. In her more detailed grounds, made over twelve pages, the Appellant refers to her other information requests about this matter, other Decision Notices she has received, and asks the Tribunal to be mindful of matters relating to her other appeals. She refers to the Council describing her as having made 35 information requests since 2013 (a figure she disputes) and submits that the Council has been deliberately obstructive in its dealings with her. She appears to suggest that the Information Commissioner is biased in favour of the Council.

12. The Appellant submits that the Decision Notice is incorrect in referring at paragraph 1 to her request being for information about a waste incinerator, because the request with which this particular appeal is concerned was about *a PFI funded 25 years £600m+ waste contract*. She submits that, when asking for copies of correspondence, the details of the senders and recipients of that correspondence are a vital part of the request and that the redaction of these details *has made it impossible to identify those whose actions were deficient and ...has prevented the public's legitimate interests in transparency and accountability*. She submits that the *blame culture that exists within County Hall prevents lessons being learned and mistakes*

being repeated, as such it is a disservice to Norfolk's population. It is submitted that the redaction of individuals' names is preventing Norfolk's taxpayers pursuing justice with those responsible for their £34m loss. If, as the Council submitted, the names redacted are of junior officers, she submits that there is a public interest in knowing that junior officers were taking very significant decisions. She complained that the Information Commissioner had accepted the Council's assertion that individual Council officers had been harassed, without asking for proof. She argued that Freedom of Information rights should be given more weight than Data Protection rights.

13. The Respondent's Response dated 16 December 2019 maintained the analysis as set out in the Decision Notice, with reference to legal authorities (which I consider further below). The suggestion of bias by the Information Commissioner is refuted. The Respondent acknowledges that legitimate interests may sometimes involve the disclosure of officials' names but submits that this is a fact-specific question in which the balance between those interests and the officials' own rights must always be considered.

14. The Respondent identifies and responds to some themes drawn from the Appellant's grounds as follows: the Council has disclosed correspondence which shows the level of seniority at which decisions were taken, so disclosure of the names of individuals is not necessary to the interest the Appellant describes; the Commissioner in fact made no finding that the individuals had a reasonable expectation that their names would not be disclosed, but merely acknowledged the Council's submission to this effect; if there were evidence that the officials were in fact at a higher grade than the Council had suggested, the Commissioner would reconsider her position; the Commissioner had not misunderstood the nature of the public interest in transparency as suggested, she had rather concluded that the names did not add to the public's ability to scrutinise events as it was possible to undertake such scrutiny with the benefit of the information which had been disclosed; the Commissioner had made no finding that the Appellant herself had engaged in the harassment of Council staff. The Commissioner must consider the impact of disclosure to the whole world and the extent to which others might be enabled to harass individuals whose names were disclosed; the Commissioner has considered this case on its own merits, as will the Tribunal.

15. The Appellant filed a Reply dated January 20, 2020, with attachments including her Reply in another matter. She also lodged final submissions with attachments. Together, these submissions comprise 53 pages of closely typed text with no paragraph numbers, which I have found it rather difficult to follow. I have taken the approach of considering whether they contain any new arguments which I should factor into my decision-making and have identified the new points described below. I note that these submissions include the Appellant's comments on documents which she has obtained from the Council and the ICO as a result of FOIA requests and SARs relating to the investigation of this matter. I also note that she is awaiting a response to a FOIA request for details of the number of her own FOIA requests. She comments extensively on her other cases. The Appellant does confirm that *There is nothing in the Commissioner's response to alter anything in the Grounds of My*

Appeal, I stand by them in their entirety, so I am confident that I have not overlooked any important change of position as to her pleaded case, although I have not here mentioned every point she has made.

16. I note that the Appellant has made a new submission, that the information request was made in February 2018, before the coming into force of the Data Protection Act 2018, so the law should be considered as it was at the date of her request. She has also asked the Tribunal to consider whether, if individuals had an expectation of privacy over five years ago, that still applies. She suggests that they would not mind their names being disclosed after all this time, and states that she has thought about contacting them to ask this but has not done so in case it is viewed as harassment. Her point appears to be that the Council should have asked them and provided the Information Commissioner with its evidence.

17. I also note that the Appellant disputes the relevance of the legal authorities relied on by the Respondent. She asks the Tribunal to consider the Upper Tribunal's Decision in *Corderoy and Others v The Information Commissioner and Others* [2018] AACR 19⁴ at [95], as to the need for the Information Commissioner to obtain evidence to support the public authority's case. I refer to this submission below.

18. I have not been assisted by the Appellant's extensive references to Decisions of differently constituted panels of the First-tier Tribunal or to the Information Commissioner's Decision Notices in other cases, as they have no precedent value, which I explain below.

The Law

19. The information request in this case fell to be considered under the Environmental Information Regulations 2004 ("EIRs").

20. The EIRs define "environmental information" as follows:

“ any information in written...form on –

(a) The state of the elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites...

(b) Factors such as substances, energy, noise, radiation or waste...emissions, discharges and other releases into the environment, affecting or likely to affect the elements of the environment referred to in (a);

(c) Measures (including administrative measures) such as policies, legislation, plans, programmes, environmental agreements and activities

⁴ <https://www.gov.uk/administrative-appeals-tribunal-decisions/1-corderoy-2-ahmed-v-1-the-information-commissioner-2-the-attorney-general-s-office-3-the-cabinet-office-2017-ukut-495-aac>

- affecting or likely to affect the elements and factors referred to in (a) and (b) ...*
- (d) ...*
- (e) Cost-benefit and other economic analyses and assumptions used within the framework of the measures and activities referred to in (c); and*
- (f) ...”*

21. Regulation 5 of the EIRs impose a duty on public authorities to disclose such information, unless an exception applies. The EIRs set out the exceptions to the duty to disclose environmental information as follows:

Exceptions to the duty to disclose environmental information

12.— (1) Subject to paragraphs (2), (3) and (9), a public authority may refuse to disclose environmental information requested if—

- (a) an exception to disclosure applies under paragraphs (4) or (5); and*
 - (b) in all the circumstances of the case, the public interest in maintaining the exception outweighs the public interest in disclosing the information.*
- (2) A public authority shall apply a presumption in favour of disclosure.*
- (3) To the extent that the information requested includes personal data of which the applicant is not the data subject, the personal data shall not be disclosed otherwise than in accordance with regulation 13.*
- (4) For the purposes of paragraph (1)(a), a public authority may refuse to disclose information to the extent that—*
- (a) it does not hold that information when an applicant’s request is received;*
 - (b) the request for information is manifestly unreasonable;*
 - (c) the request for information is formulated in too general a manner and the public authority has complied with regulation 9;*
 - (d) the request relates to material which is still in the course of completion, to unfinished documents or to incomplete data; or*
 - (e) the request involves the disclosure of internal communications.*
- (5) For the purposes of paragraph (1)(a), a public authority may refuse to disclose information to the extent that its disclosure would adversely affect—*
- (a) international relations, defence, national security or public safety;*
 - (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;*
 - (c) intellectual property rights;*
 - (d) the confidentiality of the proceedings of that or any other public authority where such confidentiality is provided by law;*

- (e) the confidentiality of commercial or industrial information where such confidentiality is provided by law to protect a legitimate economic interest;*
- (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; or*
- (g) the protection of the environment to which the information relates.*

(6) For the purposes of paragraph (1), a public authority may respond to a request by neither confirming nor denying whether such information exists and is held by the public authority, whether or not it holds such information, if that confirmation or denial would involve the disclosure of information which would adversely affect any of the interests referred to in paragraph (5)(a) and would not be in the public interest under paragraph (1)(b).

(7) For the purposes of a response under paragraph (6), whether information exists and is held by the public authority is itself the disclosure of information.

(8) For the purposes of paragraph (4)(e), internal communications include communications between government departments.

(9) To the extent that the environmental information to be disclosed relates to information on emissions, a public authority shall not be entitled to refuse to disclose that information under an exception referred to in paragraphs (5)(d) to (g).

(10) For the purposes of paragraphs (5)(b), (d) and (f), references to a public authority shall include references to a Scottish public authority.

(11) Nothing in these Regulations shall authorise a refusal to make available any environmental information contained in or otherwise held with other information which is withheld by virtue of these Regulations unless it is not reasonably capable of being separated from the other information for the purpose of making available that information.

22. Noting that the disputed information in this case is personal data, regulation 12 (3) above provides that it *shall not* be disclosed otherwise than in accordance with regulation 13 EIRs.

23. Regulation 13 EIRs was amended by paragraph 307 of schedule 19 to the Data Protection Act 2018, as follows:

307(1) Regulation 13 (personal data) is amended as follows.

(2) For paragraph (1) substitute—

“(1) To the extent that the information requested includes personal data of which the applicant is not the data subject, a public authority must not disclose the personal data if—

(a) the first condition is satisfied, or

(b) the second or third condition is satisfied and, in all the circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing it.”

(3) For paragraph (2) substitute—

“(2A) The first condition is that the disclosure of the information to a member of the public otherwise than under these Regulations—

(a) would contravene any of the data protection principles, or

(b) would do so if the exemptions in section 24(1) of the Data Protection Act 2018 (manual unstructured data held by public authorities) were disregarded.

(2B) The second condition is that the disclosure of the information to a member of the public otherwise than under these Regulations would contravene—

(a) Article 21 of the GDPR (general processing: right to object to processing), or

(b) section 99 of the Data Protection Act 2018 (intelligence services processing: right to object to processing).”

(4) For paragraph (3) substitute—

“(3A) The third condition is that—

(a) on a request under Article 15(1) of the GDPR (general processing: right of access by the data subject) for access to personal data, the information would be withheld in reliance on provision made by or under section 15, 16 or 26 of, or Schedule 2, 3 or 4 to, the Data Protection Act 2018,

(b) on a request under section 45(1)(b) of that Act (law enforcement processing: right of access by the data subject), the information would be withheld in reliance on subsection (4) of that section, or

(c) on a request under section 94(1)(b) of that Act (intelligence services processing: rights of access by the data subject), the information would be withheld in reliance on a provision of Chapter 6 of Part 4 of that Act.”

(5) Omit paragraph (4).

(6) For paragraph (5) substitute—

“(5A) For the purposes of this regulation a public authority may respond to a request by neither confirming nor denying whether such information exists and is held by the public authority, whether or not it holds such information, to the extent that—

(a) the condition in paragraph (5B) (a) is satisfied, or

(b) a condition in paragraph (5B) (b) to (e) is satisfied and in all the circumstances of the case, the public interest in not confirming or denying whether the information exists outweighs the public interest in doing so.

(5B) The conditions mentioned in paragraph (5A) are—

(a) giving a member of the public the confirmation or denial—

(i) would (apart from these Regulations) contravene any of the data protection principles, or

(ii) would do so if the exemptions in section 24(1) of the Data Protection Act 2018 (manual unstructured data held by public authorities) were disregarded;

(b) giving a member of the public the confirmation or denial would (apart from these Regulations) contravene Article 21 of the GDPR or section 99 of the Data Protection Act 2018 (right to object to processing);

(c) on a request under Article 15(1) of the GDPR (general processing: right of access by the data subject) for confirmation of whether personal data is being processed, the information would be withheld in reliance on a provision listed in paragraph (3A) (a);

(d) on a request under section 45(1)(a) of the Data Protection Act 2018 (law enforcement processing: right of access by the data subject), the information would be withheld in reliance on subsection (4) of that section;

(e) on a request under section 94(1)(a) of that Act (intelligence services processing: rights of access by the data subject), the information would be withheld in reliance on a provision of Chapter 6 of Part 4 of that Act.”

(7) After that paragraph insert—

“(6) In determining for the purposes of this regulation whether the lawfulness principle in Article 5(1)(a) of the GDPR would be contravened by the disclosure of information, Article 6(1) of the GDPR (lawfulness) is to be read as if the second sub-paragraph (disapplying the legitimate interests gateway in relation to public authorities) were omitted.”

24. Paragraph 60 of schedule 20 to the Data Protection Act 2018 makes provision for EIR requests made prior to commencement of that Act but which were responded to after commencement, as follows:

60(1) This paragraph applies where a request for information was made to a public authority under the Environmental Information Regulations 2004 (“the 2004 Regulations”) before the relevant time.

(2) To the extent that the request is dealt with after the relevant time, the amendments of the 2004 Regulations in Schedule 19 to this Act have effect for the purposes of determining whether the authority deals with the request in accordance with Parts 2 and 3 of those Regulations.

(3) To the extent that the request was dealt with before the relevant time—

(a) the amendments of the 2004 Regulations in Schedule 19 to this Act do not have effect for the purposes of determining whether the authority dealt with the request in accordance with Parts 2 and 3 of those Regulations, but

(b) the powers of the Commissioner and the Tribunal, on an application or appeal under the 2000 Act (as applied by the 2004 Regulations), do not include power to require the authority to take steps which it would not be required to take in order to comply with Parts 2 and 3 of those Regulations as amended by Schedule 19 to this Act.

(4) In this paragraph—

“public authority” has the same meaning as in the 2004 Regulations;

“the relevant time” means the time when the amendments of the 2004 Regulations in Schedule 19 to this Act come into force.

25. The powers of the Tribunal in determining this appeal are set out in s.58 of the Freedom of Information Act, as applied by regulation 18 EIRs, as follows:

“If on an appeal under section 57 the Tribunal considers -

(a) that the notice against which the appeal is brought is not in accordance with the law, or

(b) to the extent that the notice involved an exercise of discretion by the Commissioner, that he ought to have exercised his discretion differently,

the Tribunal shall allow the appeal or substitute such other notice as could have been served by the Commissioner, and in any other case the Tribunal shall dismiss the appeal.

On such an appeal, the Tribunal may review any finding of fact on which the notice in question was based.”

26. First-tier Tribunals are bound as a matter of legal precedent by Decisions of the Upper Tribunal but not by Decisions of differently constituted First-tier Tribunals. See *O'Hanlon v Information Commissioner* [2019] UKUT 34 (AAC).⁵

27. The burden of proof in satisfying the Tribunal that the Commissioner's Decision Notice was wrong in law or involved an inappropriate exercise of discretion rests with the Appellant.

Evidence

28. Neither party relied on witness evidence.

⁵ https://assets.publishing.service.gov.uk/media/5c7fb354e5274a3f8edc00cf/GIA_1680_2018-00.pdf

29. The documentary evidence before me comprised the correspondence between the parties in relation to this information request and the correspondence in respect of the ICO investigation. I have also received some additional material provided by the Appellant which concerns another information request and Decision Notice FER0745063 in which the Appellant was the complainant.

30. I have received the disclosed material in its unredacted form, which I refer to in a closed annexe to this Decision.

Conclusions

31. I note that the Appellant has raised some general concerns as to the procedural fairness of the Information Commissioner's investigation in her Notice of Appeal. The Upper Tribunal has confirmed that the nature of an appeal against a Decision Notice is a re-hearing and not a procedural review, and so this Decision is itself curative of any such difficulty. I have not in any event identified any procedural unfairness and I have no hesitation in rejecting the Appellant's allegation of bias by the Information Commissioner.

32. The Appellant's Notice of Appeal seeks a remedy in respect of the Council's systems for handling information requests. I have no power to grant such a remedy. I note that the Information Commissioner made clear her findings about breach of the relevant time limits, and I discern no error in her approach to that issue.

33. My role is to determine the appeal now before me. It has not been consolidated with the other appeals made by this Appellant and in those circumstances, it is not appropriate for me to take into account all the details from other cases to which the Appellant has referred me. I have noted the general picture which emerges of the Appellant's keen interest in these matters, but I would advise her to confine her arguments in each appeal to the specific Decision Notice to which it relates.

34. The Appellant has not disputed that the EIRs are the appropriate regime under which to consider her request. She has also not disputed that the redacted information constitutes *personal data*. It follows that the key issue in this appeal is whether the Decision Notice correctly applied regulation 13 EIRs (as amended) to the facts of this case.

35. I must reject the Appellant's submission that the EIRs should have been applied to her request on the terms in which they existed at the date she made it. Paragraph 60 of schedule 20 to the Data Protection Act 2018 makes clear that the relevant date is the date of the public authority's response to the information request. In this case, that was the internal review decision of 1 October 2018. This was after the commencement of the amendments to regulation 13 EIRs on 25 May 2018. I conclude that the relevant version of regulation 13 EIRs was applied in the Decision Notice. It does not in any event seem to me that the Decision Notice would have been different if it had been decided with reference to the old law.

36. The Respondent drew my attention to the Upper Tribunal's endorsement of the three-stage test applied by this Decision Notice, in respect of the previous law, in

Goldsmith International Business School v Information Commissioner and Home Office [2014] UKUT 563 (AAC)⁶ at [35] to [42]. This was a reiteration of the Supreme Court's judgment in *South Lanarkshire Council v The Scottish Information Commissioner* [2013] UKSC 55⁷ at [18]. I reject the Appellant's submission that these authorities may be distinguished and conclude that they bind me as a matter of precedent. I am satisfied that the Decision Notice was correct to adopt this approach in respect of the new law in 2018.

37. With respect to the Appellant's reliance on *Corderoy and Others v The Information Commissioner and Others* [2018] AACR 19 at [95], I do not consider that this Upper Tribunal Decision assists her case, as the Decision Notice I am now considering is not based on findings of fact in relation to disputed issues. The Appellant is effectively complaining about the Decision Notice's references to the Council's case (as to harassment of staff) and the absence of an evidenced fact-finding exercise as to the claimed enduring refusal to consent to disclosure of those person's whose personal data she seeks - but these are points on which it does not seem to me that the Information Commissioner was obliged to require evidence because she did not need to make a finding of fact on these issues in order to reach her conclusions.

38. In *Cox v IC and Home Office* [2018] UKUT 119 (AAC)⁸ Upper Tribunal Judge Wikeley commented that:

45. Also relevant in the present context is Judge Jacobs's warning in GR-N v Information Commissioner and Nursing and Midwifery Council (at paragraph 30) against over-generalised propositions: "is impossible to apply paragraph 6(1) without having regard to the identity of the applicant, the interest pursued by the request, and the extent to which information is already potentially available to the public."

46. Fourth, it follows from the above that the legitimate interests of an individual requester may, or may not, involve the disclosure of officials' names – but that is a context-specific and fact-sensitive question. Such a legitimate interest cannot be automatically assumed. To revert to a well-worn phrase, it all depends.

39. Taking a fact-specific approach to the issues in this case, I agree with the Information Commissioner's conclusion that the Appellant has not shown it to be necessary for the personal data of third parties to be disclosed in order to meet the legitimate interest of transparency and accountability in this case. She has received what is, by any account, a massive amount of information about the matters which

⁶ <https://www.bailii.org/uk/cases/UKUT/AAC/2014/563.html>

⁷ <https://www.supremecourt.uk/cases/docs/uksc-2012-0126-judgment.pdf>

⁸

concern her, and she is well able to hold the Council to account for its actions by reference to this material. She has failed to demonstrate that is necessary to disclose the particular personal data she seeks in order to address her legitimate interest. As such, she is unable to persuade me that the GDPR protections enjoyed by those persons whose personal data has been redacted should be overridden to permit disclosure. This conclusion relies on the application of well-established principles and does not rely on a finding of fact as to the degree to which any individual has agreed or not agreed, or whether they might agree, to the disclosure of their personal data.

40. I find no error of law in the Information Commissioner's Decision Notice nor any inappropriate exercise of discretion. Accordingly, I now dismiss this appeal.

(Signed)

JUDGE ALISON MCKENNA

DATE:11th May 2020

CHAMBER PRESIDENT

