

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 24 October 2011

Public Authority: East Riding of Yorkshire Council
Address: County Hall
Cross Street
Beverley
East Riding of Yorkshire
HU17 9BA

Decision

1. The complainant requested information relating to the occupation of a specific residential site. East Riding of Yorkshire Council (the "Council") refused the request under regulation 12(4)(b) (manifestly unreasonable).
 2. Immediately prior to submitting their complaint to the Commissioner, the complainant had been provided with the Commissioner's decision regarding their complaint about the Council's handling of a previous request¹. In that instance, the Commissioner found that the Council had correctly refused the request as being manifestly unreasonable. The Commissioner considers that the request which is the subject of this decision notice relates to the same matters and that, therefore, the analysis and conclusions he reached in his previous notice are also applicable in this instance.
 3. The Commissioner's decision is that the Council was correct to apply regulation 12(4)(b) to the request and that the public interest favours maintaining the exception in this instance.
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¹ ICO reference: FS50378227; published on the ICO website here: http://www.ico.gov.uk/~media/documents/decisionnotices/2011/fs_50378227.ashx

4. The Commissioner requires no steps to be taken.

Request and response

5. On 14 September 2011, the complainant wrote to the Council and requested information in the following terms:

"....could you give me the exact period that anybody other than myself and my family have occupied the site of Parkview residentially."

6. The Council responded on 27 September 2011, stating the following:

"You will have now received the decision of the Information Commissioner's Office in relation to your request for information. The decision of the ICO is that the Council were correct in deciding that your request was manifestly unreasonable. I will therefore not correspond with you further on this issue."

Scope of the case

7. The complainant contacted the Commissioner to complain about the Council's refusal to disclose the requested information.
8. The Commissioner has considered whether the Council was correct to treat the request as being manifestly unreasonable.

Reasons for decision

9. Regulation 12(4)(b) of the EIR explains that a public authority may refuse to disclose information in cases where a request is manifestly unreasonable.
10. When considering whether a request is vexatious or not the Commissioner will look to the all of the circumstances of the case, but will bear in mind a number of guidelines which might aid him to make his decision. These are:
 - a) whether compliance would create a significant burden in terms of expense and distraction
 - b) whether the request is designed to cause disruption or annoyance
 - c) whether the request has the effect of harassing the public authority or its staff

- d) whether the request can otherwise fairly be characterised as obsessive or manifestly unreasonable
- e) whether the request has any serious purpose or value
11. The complainant's request follows almost 20 years of correspondence and meetings with the Council relating to a bungalow which neighbours their property. The Commissioner understands that the complainant believes that part of the property extends on to their own land, and has sought information from the Council as to how this situation was allowed to occur.
12. As noted in paragraph 2, the Commissioner recently issued a decision notice which relates to the Council's handling of a previous request made by the complainant. This decision notice found that the Council had correctly refused the complainant's request as being manifestly unreasonable. Paragraph 21 of the notice stated the Commissioner's view that it was:
- "....clearly the intention of the complainant to continue making complaints or requests until he has proven his case. The Commissioner has therefore taken into account the full context of all the complaints and the requests so far, and the fact that the complainant would be more than likely to continue to make requests on this issue when making his decision. The answers which the council could provide in this instance would not specifically resolve the issues he has with the council and so the Commissioner considers that the complainant would continue with further requests until he achieved his goal."
13. The request which is the subject of this decision notice relates to the same issue as the request which was considered in the Commissioner's previous decision notice, namely, queries about the complainant's property.
14. As the request represents a continuation of the complainant's previous, substantial correspondence with the Council about the same issue, the Commissioner considers that the analysis and conclusions set out in his previous decision notice are also applicable in this instance. For brevity, the Commissioner will not reproduce the content of that notice here but transposes its analysis and its conclusion that the Council had correctly refused the request as being manifestly unreasonable to this decision notice.

Right of appeal

15. 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: 0300 1234504

Fax: 0116 249 4253

Email: informationtribunal@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

16. 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.
17. 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
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