

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 7 November 2022

Public Authority: Rural Payments Agency
(Executive Agency of the Department for
Environment, Food, and Rural Affairs)

Address: PO Box 69
Reading
RG1 3YD

Decision (including any steps ordered)

1. The complainant has requested information relating to Brampton Commons rights payments. The above public authority ("the public authority") relied on regulation 13 of the EIR to refuse to confirm or deny that information was held.
2. The Commissioner's decision is that the public authority was entitled to rely on regulation 13(5) of the EIR to refuse to confirm or deny whether any information was held.
3. The Commissioner does not require any further steps.

Request and response

4. On 19 October 2021 the complainant asked the public authority for the recipients of the Brampton Commons rights payments, specifically naming some potential recipients.
5. The public authority refused to confirm or deny whether it held the information – a position it upheld at internal review.

Reasons for decision

Regulation 13

6. The following analysis explains why the Commissioner is satisfied that the public authority was entitled to neither confirm nor deny holding the information that had been requested.
7. Regulation 13(5) of the EIR allows a public authority to refuse to confirm or deny that it holds particular information if the mere act of confirming (or denying) that information is held would, in itself, reveal personal data about an identifiable individual – unless there is a lawful basis for doing so.
8. The original request asked the Rural Payments Agency to confirm the recipients of the Brampton Commons rights payments. When the authority requested clarification, the requester confirmed they wanted the names of specific individuals. The Commissioner considers this would clearly identify specific individuals, and would amount to a disclosure of personal data, if information was held.
9. The number of individuals who would be eligible to apply for commons rights payments is small. Therefore, if the Rural Payments Agency were to confirm or deny holding this information, it is likely individuals could be identified either by the complainant or other individuals through cross-referencing with publicly available records, such as the electoral register. This would deem one or all of the named individuals able to be identified by the complainant as a recipient, if information was held.
10. Disclosure of information, if held, may still be permissible under the EIR if a condition for processing under the DPA can be identified. In this instance, the Commissioner acknowledges the complainant has identified a legitimate interest, and that disclosure of this information, if held, is the only way to fulfil this legitimate interest.
11. However, should information be held, it is also the Commissioner's opinion that any individual(s) that may be concerned have a reasonable expectation that their data would not be disclosed or that the public authority would neither confirm nor deny holding their data.

12. The Commissioner also accepts that the confirmation or denial of any information held could undermine the rights and freedoms of any individuals who may be involved.
13. The Commissioner is therefore satisfied that the public authority could not disclose whether it held information.
14. The Commissioner's decision, therefore, is that the Rural Payments Agency were correct to neither confirm or deny holding information within the scope of this request. The information is exempt from disclosure under Regulation 13(5) of the EIR.

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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

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

**Phillip Angell
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF**