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FOI/EIR    FOI and EIR Section/Regulation    Section 2    Issue    Handling a suspicion of wrongdoing by a public authority in DNs.  
Regulation 12(1)(b)

Line to take:

Case officers must take great care when drafting a DN in any case in which there is a suspicion of wrongdoing. If necessary, use a confidential annex rather than run the risk of revealing that there is a smoking gun.

Further Information:

In any case where there is a suspicion of wrongdoing by the public authority, and the content of the information either supports or refutes that suspicion, case officers should consider carefully how to handle this in the drafting of the decision notice. For instance, if we were to give away in the DN that the suspicion is justified ("the smoking gun"), this might reveal the content of the withheld information – which would remove any meaningful right of appeal.

Suggested approach

- The DN could say that there is an additional public interest in disclosure because the information is revealing one way or the other. (NB if the information does not help either way, there is no additional public interest).
- If necessary, use a confidential annex to the DN to reveal whether the information provides evidence either supporting the suspicion or refuting it.
- Case officers should discuss with a signatory the wording of the DN and the use of a confidential annex.

Source

Details

Policy Delivery

Related Lines to Take

Related Documents

External FOIA and EIR

guidance on the public interest test; former LTT235

Contact

VA

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Policy Reference

**CWAN 009**

- [Information Commissioner's Office intranet](#)