

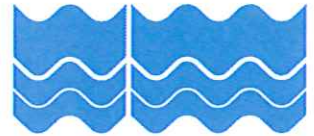
Governance Services

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Mr Plant

Email: request-225089-e534ccdb@whatdotheyknow.com

date

22 October 2014

when responding please contact

Philip Baker
(01273) 481564

our ref

Ref 4378
PB/ch

your ref

Dear Mr Plant

Thank you for your e-mail of 24 August 2014 confirming your request for an internal review in accordance with the Environmental Information Regulations 2004 ('EIR').

I confirm that the details of your request, the response to your request and your request for an internal review are set out in the enclosed chronology (**Appendix A**).

The purpose of this internal review has been to determine whether your request for information to East Sussex County Council ('the Council') has been dealt with in accordance with the requirements of the EIR.

In your original request, you sought the disclosure of copies of all communications between the Council and the landlord of Pauling House, Spencer Road, Eastbourne, concerning the failure of the latter to obtain, or provide, Energy Performance Certificates ('EPCs') in respect of the eight flats at that address ('the Property'). Specifically, you requested copies of letters, e-mails, records of telephone calls and any other documents that exist in connection this with this.

The information you requested was assessed and the decision was made that as it qualified as 'personal data' under the Data Protection Act 1998, which under Regulation 13 of the EIR shall not be disclosed. As such, the information was not disclosed to you.

I have considered the information requested and whether it qualifies as 'personal data' under the Data Protection Act 1998. The relevant section (s.1, basic interpretative provisions) defines 'personal data' as:

'data which relate to a living individual who can be identified-

(a) from those data, or

(b) from those data and other information which is in the possession of, or is likely to come into the possession of, the data controller, and includes any expression of opinion about the individual and any indication of the intentions of the data controller or any other person in respect of the individual'.

.../Cont'd

Having considered this definition and the information held by the Council which would fall within the request you made, I have concluded that it does amount to 'personal data' as defined above.

I have considered the relevant provisions of Regulation 13 of the EIR which at 13(1) state that subject to certain conditions, the local authority shall not disclose the personal data. I have considered whether any of these conditions are met, and have determined that the Regulation 13(2)(a)(i) applies, which disclosure otherwise than under these Regulations would contravene any of the data protection principles.

in a case where the information falls within any of paragraphs (a) to (d) of the definition of 'data' in section 1(1) of the Data Protection Act 1998, that the disclosure of the information to a member of the public otherwise than under these Regulations would contravene—

(i) any of the data protection principles; or

In my view, disclosure of the requested information to you would be in breach of data protection principle 1 (*personal data shall be processed fairly and lawfully and, in particular, shall not be processed unless at least one of the conditions in Schedule 2 is met*), principle 2 (*personal data shall be obtained only for one or more specified and lawful purposes, and shall not be further processed in any manner incompatible with that purpose or those purposes*) and 6 (*personal data shall be processed in accordance with the rights of data subjects under this Act*).

Given the determination of personal data, under the EIR there is no requirement to consider whether such disclosure is in the public interest, so I have not considered this here and my decision is the information should not be disclosed.

If you are not content with the outcome of the internal review process, you then have the right to apply directly to the Information Commissioner for a decision. Generally, the Information Commissioner cannot make a decision unless you have exhausted the County Council's Internal Review procedure, as described above. The Commissioner can be contacted at: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF. Tel: 0303 123 1113. www.ico.gov.uk

Yours sincerely



Philip Baker
Assistant Chief Executive
Governance Services