

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 28 January 2013

Public Authority: Department of Agriculture & Rural Development
Address: Room 507 Dundonald House
Upper Newtownards Road
Belfast BT4 3SB

Decision (including any steps ordered)

The complainant has requested information from the Department of Agriculture & Rural Development (DARD) relating to a duplicate Single Farm Payment made against land owned by the complainant. DARD refused to disclose the requested information, stating that it was exempt from disclosure under regulations 12(3) and 13(1) of the Environmental Information Regulations 2004 (EIR) (personal data of third parties). The Commissioner's decision is that DARD has correctly applied regulations 12(3) and 13(1) of the EIR to the requested information. The Commissioner therefore orders no steps to be taken.

Request and response

1. On 13 March 2012, the complainant wrote to DARD and requested information in relation to a duplicate Single Farm Payment claim made against lands owned and occupied by the complainant. Specifically, he requested the name and address of the individual who made the duplicate claim.
2. DARD responded on 16 April 2012. It stated that the requested information was excepted from disclosure under regulation 13(1) of the EIR as it consisted of personal data of a party other than the complainant.
3. Following an internal review, DARD wrote to the complainant on 23 June 2012. The reviewer upheld the original decision not to disclose the requested information, citing regulation 13(1) of the EIR as a basis for non-disclosure.

Scope of the case

4. The complainant contacted the Commissioner to complain about the way his request for information had been handled.
5. The Commissioner has considered whether has been correctly applied to the requested information.

Reasons for decision

Personal Information of Third Parties – Regulation 13(1) of the EIR

6. Under Regulation 5(1) of the EIR a public authority that holds environmental information is required to make it available on request. However, that requirement is subject to Regulation 13(1) which provides that, to the extent that the information requested includes personal data of which the applicant is not the data subject and the disclosure of the information to a member of the public would contravene any of the data protection principles set out in the Data Protection Act 1998 (DPA), a public authority shall not disclose the personal data.
7. The first principle of the DPA requires that the processing of personal data is fair and lawful and that at least one of the conditions for processing in Schedule 2 is met.
8. The information being withheld under regulation 13(1) of the EIR is personal data as it consists of details of the individual who made the duplicate claim for Single Farm Payment.
9. The Commissioner has firstly considered whether the disclosure of this information would be fair. In order to reach a view on this he has considered what would be the reasonable expectation of the individual whose personal data is held by DARD, i.e. would he or she have any expectation of their personal data being provided to a third party.
10. In deciding whether disclosure of the information being withheld under regulation 13(1) would be unfair the Commissioner has taken into account a range of factors including the potential consequences of disclosing the information, i.e. what detriment, if any, would the individual suffer if the information was disclosed? He has also balanced the rights and freedoms of the data subject with any legitimate interest in disclosure.

11. The Commissioner considers that the above individual would not have had any expectation that his/her personal information would be disclosed to the public. They would have had, as DARD argues, a reasonable and legitimate expectation that their information was only held by DARD for the purposes of processing Single Farm Payment Claims. DARD has also informed the Commissioner that the individual has not consented to the disclosure of his/her details under EIR to the wider world. DARD has further informed the Commissioner that the duplicate Single Farm payment claim made by the individual was due to an administrative error, which has since been corrected at the request of the individual.

What detriment would the individual suffer if the information was disclosed?

12. The Commissioner considers that there is a real risk that release of the information would cause damage and intrusion to the individual, particularly due to the fact that it is outside his/her reasonable expectations for information of this nature to be made available to the world at large. The Commissioner has nevertheless looked at all the circumstances of the case to see if there is a legitimate interest in disclosure of the withheld information.

Is there a legitimate interest to the public in disclosure of the withheld information?

13. The Commissioner considers that the issue is a private issue of the complainant, involving his land, and that therefore no legitimate interest of the public would be served by disclosure of the requested information. There is obviously a general public interest in the transparency and accountability of public authorities, and how they deal with administrative errors, however disclosure of an individual's personal details would do nothing to serve that legitimate interest. As the claim was due to an administrative error, rather than any suggestion of a fraudulent claim, the Commissioner does not consider that any legitimate interest of the public would be served by disclosure of the requested information.
14. The Commissioner considers that there may be a legitimate interest in the complainant receiving the requested information, as it could potentially have affected his land, which he was in the process of trying to sell. However, since DARD provided assurances to the complainant that the claim was made due to a simple administrative error, which it has now corrected, the Commissioner considers that there is no further legitimate interest in the complainant being provided with the requested information.

15. The Commissioner agrees that disclosure of the personal data of the individual would be unfair in this instance. As disclosure would be unfair, this would be a breach of the first data protection principle. The Commissioner therefore considers that the DARD was correct to apply Regulation 13(1) in this instance.

Right of appeal

16. 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

17. 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.
18. 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

Rachael Cragg
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