

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 7 August 2017

Public Authority: Thanet District Council

Address: PO Box 9
Cecil Street
Margate
Kent
CT9 1XZ

Decision (including any steps ordered)

1. The complainant has requested information concerning the details of compensation payments made to third parties by Thanet District Council following a 2014 High Court judgement which found that the Council acted unlawfully in imposing a ban in 2012 on livestock shipments from the Port of Ramsgate. The Council provided the complainant with information as to the total amount of compensation paid and the legal costs of such settlements but withheld the individual settlement amounts and the identities of the compensated parties under sections 41(1)(information provided in confidence) and 38(1)(health and safety). During the Commissioner's investigation the Council disclosed to the complainant the individual compensation payments made to five parties who reached out-of-court settlements with the Council but maintained section 41(1) to the identities of those parties. The Council also applied section 43(2)(prejudice to commercial interests) to the withheld information but later withdrew reliance on this exemption and section 38(1).
 2. The Commissioner's decision is that the Council acted correctly in withholding the residual requested information under section 41(1) and does not consider that the Council would have a public interest defence to a breach of confidence action.
 3. No steps are required.
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Background

4. In September 2012 Thanet District Council (the Council), imposed a ban on livestock shipments from the port of Ramsgate. The ban, which lasted for a period of just over a month, had been imposed under section 40 of the Harbours Act 1964 in response to a distressing incident on 12 September 2012 which had resulted in the death of approximately 45 sheep. The Council was subsequently found by the High Court¹ to have acted in breach of Regulation 1/2005, which harmonised the law on the protection of animals during transport. The ban, interfering as it did with the protection of free trade and the free movement of goods between Member States, was a breach of Art 35 TFEU² which could not be justified under Art 36. The Council was therefore liable in *Francovich* damages and compensation to exporters affected by the ban.
5. The Commissioner notes that the Council have previously disclosed into the public domain that the total amount of compensation which they have paid to livestock exporters following the High Court ruling is £4,692,630.04. During the Commissioner's investigation and to maximise transparency the Council also provided the complainant with the individual amounts of compensation paid to five parties who reached out-of-court settlements with the Council.

Request and response

6. On 8 April 2016 the complainant wrote to the Council and requested information in the following terms:

'1. For the financial year 2013-14 how much money was spent by Thanet Council in damages payments to the live animal exporters and legal fees. Could you break down the damages payments by recipient name which may be a company or an individual. Could you identify separately money spent by Thanet Council to cover the legal costs of the live animals exporters.

2. For the financial year 2014-15 how much money was spent by Thanet Council in damages payments to the live animal exporters and legal fees. Could you break down the damages payments by recipient name which may be a company or an individual. Could you identify separately

¹ Barco De Vapor B.V. v Thanet District Council [2014] EWHC 490

² Treaty on the Functioning of the European Union

money spent by Thanet Council on its own legal fees and money spent by Thanet Council to cover the legal costs of the live animals exporters.

3. For the financial year 2015-16 how much money was spent by Thanet Council in damages payments to the live animals exporters and legal fees. Could you break down the damages payments by recipient name which may be a company or an individual. Could you identify separately money spent by Thanet Council to cover the legal costs of the live animals exporters.

4. For the financial year 2016-17 how much money, to date, has been spent by Thanet Council in damages payments to the live animals exporters and legal fees. Could you break down the damages payments by recipient name which may be a company or an individual. Could you identify separately money spent by Thanet Council on its own legal fees and money spent by Thanet Council to cover the legal costs of the live animals exporters.

5. Could you tell me whether, since the High Court hearing of December 2013 at which the Judge ruled that Thanet Council was liable to pay damages to the live animals exporters, if there have been any other court cases or tribunal hearings involving Thanet Council and the export of live animals from the port of Ramsgate. If so, please provide details of these cases, e.g. dates and name of court/tribunal and copies of judgements/decisions.

6. Could you please tell me if there any outstanding claims for damages related to the export of live farm animals from the port of Ramsgate in process of being settled or pending the settlement process. If so, please provide me with the number of pending claims and the names of the claimants'.

7. The Council responded to the request on 10 May 2016. They provided the complainant with a table showing the value of compensation payments made and the legal costs incurred for each financial year since 2012/13. The Council also confirmed that there had been no other court cases or tribunal hearings resulting from the export ban since the High Court hearing of December 2013. The Council confirmed that they held the remainder of the information requested (i.e. the amount of settlement payments and the identities of the claimants) but advised that this information was exempt from disclosure under section 41(1) of the Act and *'this is an absolute exemption because the information was provided in confidence'*.
8. The complainant requested an internal review on 10 May 2016. He challenged the contention that naming the compensated parties would constitute a breach of confidence and noted that in correspondence to him of 9 July 2015, the Council had named two of the compensated

parties (Barco De Vapor and Trevor Head) and had confirmed that those compensation payments had not been subject to any confidentiality agreements. The complainant contended that, *'if the Council has already revealed to me the names of 2 of the compensation beneficiaries then consistency would require the Council to provide me the names of any subsequent beneficiaries'*. The complainant disputed the Council's statement that section 41 was an absolute exemption and contended that there was *'an overwhelming public interest case'* for the disclosure of the withheld information.

9. The Council provided the complainant with their internal review on 10 June 2016. The review was inadequate as it simply stated that *'the decision is upheld for the reasons set out in the Council's original response'* and failed to acknowledge or address any of the points made by the complainant. In later submissions to the Commissioner the Council accepted that the review had been inadequate and apologised for this.

Scope of the case

10. The complainant contacted the Commissioner on 8 August 2016 to complain about the way his request for information had been handled.
11. In submissions to the Commissioner the Council explained why they had not withheld the names of Barco De Vapor and Trevor Head, two of the compensated parties.
12. Barco De Vapor were a named party in the High Court case and that judgement was reasonably accessible from online searches or through a local library or court. Although the company were technically caught by section 21 of the Act (information accessible by other means) in the spirit of maximum disclosure the Council had not engaged that exemption and had released the name to the complainant.
13. Trevor Head was paid compensation through a Consent Order (a formal instruction from a judge based on an agreement between the parties). As that settlement had been agreed by way of a Consent Order, and as Trevor Head was a named party in the Council's statement of accounts year ending 31 March 2015, the details of this claimant were also reasonably accessible. The Council confirmed that for this reason they could not rely on exemptions which were otherwise legitimate for withholding the names of the other compensated parties.
14. The Council confirmed that, in addition to Barco De Vapor and Trevor Head, five other claimants had been given compensation but through out-of-court settlements. Those settlements had been made in order to settle the Council's liabilities informally, in avoidance, amongst other

things, of further significant legal expenditure. It is the identity of those five claimants which constitute the withheld information in this case.

15. The Commissioner considers that the scope of her investigation is to determine whether the Council correctly applied section 41(1) to withhold the names of the five claimants.

Reasons for decision

Section 41 – information provided in confidence

16. Section 41 of FOIA states that:

'(1) Information is exempt information if –

(a) it was obtained by the public authority from any other person (including another public authority), and

(b) the disclosure of the information to the public (otherwise than under this Act) by the public authority holding it would constitute a breach of confidence actionable by that or any other person'.

17. For this exemption to be engaged two criteria therefore have to be met; the public authority has to have obtained the information from a third party **and** the disclosure of that information has to constitute an actionable breach of confidence.
18. With regard to whether disclosure would constitute an actionable breach of confidence the Commissioner follows the test of confidence set out in *Coco v A N Clark (Engineering) Ltd* [1968] FSR 415. This judgement suggested that the following three limbed test should be considered in order to determine if information was confidential:
 - Whether the information had the necessary quality of confidence;
 - Whether the information was imparted in circumstances importing an obligation of confidence; and
 - Whether an unauthorised use of the information would result in detriment to the confider.
19. If the requested information (as here) is commercial in nature then the disclosure will only constitute a breach of confidence if it would have a detrimental impact on the confider.
20. The Commissioner is satisfied that the withheld information was provided to the Council by third parties. The identities of the five claimants concerned are held by the Council because those parties

submitted claims for compensation following the High Court judgement. The Council would not otherwise hold the withheld information. Section 41(1)(a) is therefore met.

21. In submissions to the Commissioner the Council confirmed that the withheld information is not in the public domain and so is not otherwise accessible and is far from trivial in nature. They also stated that, *'the environment in which compensation was paid for the five withheld parties was wholly different from Barco De Vapor and Trevor Head'*. The Council advised that the relevant information was given in an environment and circumstances which inherently imported an obligation of confidence. The Council noted that it is widely recognised and understood that out-of-court settlements are private matters between the parties and are kept private on the understanding that such settlements dispose of any further legal action by the damaged party. The Council contended that, *'no party to settlement has any expectation whatsoever that the settlement, nor their agreement to a settlement, would be made public'*. The Council stated that whilst there were no formal confidentiality clauses or agreements in the out-of-court settlements, the obligation of confidence was implied and well-recognised by the parties.
22. In submissions to the Commissioner the complainant stated that given the extensive local and national media coverage and debates which the export of live farm animals from the port of Ramsgate had attracted, he would have expected the Council to have applied formal confidentiality agreements to the compensation payments made and contended that, *'a quality of confidentiality must by definition, be of a lesser order than a formal signed confidentiality agreement'*. The Commissioner considers that whilst the confiders (the five parties) in the present case did not attach explicit conditions to any subsequent use or disclosure of the information provided to the Council, the obligation of confidence is implicit from the circumstances. As the Council has correctly noted, out-of-court settlements are widely acknowledged and recognised to be private matters which carry implied confidentiality and the quality of that confidence is not weakened or diminished due to it being implied rather than explicit.
23. The complainant also noted that it is clear from the High Court case that a number of the witnesses who gave evidence were involved in the shipment of live animals from the port of Ramsgate. He acknowledged that any compensation paid to such individuals *'may be regarded as being confidential'* because they were not litigants in the case, but he contended that the quality of any such confidentiality was significantly reduced by the prominent roles which such individuals had played in the court case.

24. The Commissioner acknowledges and accepts that it could be fairly assumed that some of the witnesses in the High Court case were affected parties and may therefore have subsequently brought compensation claims against the Council as result. However, this is assumption only and the actual identities of the out-of-court compensated parties remain unknown publicly.
25. With regard to the detrimental impact which disclosure of the withheld information would have on the five claimants the Council contended that the disclosure of the withheld information would only serve to focus extreme actions towards the parties concerned and their vehicles in attempts to disrupt their business. The Council advised that while they were happy and eager to accommodate peaceful and democratic protest for those wishing to demonstrate against the live-animal trade, and had done so on previous occasions without causing any commercial disruption to the port of Ramsgate or her patrons, there had been previous incidents involving those who, far from protesting legitimately, had sought to cause commercial disruption to the trade.
26. The Council advised the Commissioner that the Harbour Master and his officers at the port of Ramsgate do not condone live-animal transit, per se, but they must adhere (as the High Court judgement had made clear) to EU free trade rules in so far as they afford all customers, including those in the live-animal transit trade, use of the transport vessel facilities available. The Council advised that violent demonstrations had led to the Harbour Master being personally assaulted and his officers had been verbally and physically assaulted to the extent that many were unwilling to come in to work knowing the very real threat of identification and assault. As a result the resources and efficiency of the port had been adversely impacted.
27. The Council advised the Commissioner that one of the live-animal exporters had been attacked at the port whilst in his vehicle, the windows being smashed and the police arresting those responsible on site. The Council submitted that 'protest' of such violent nature acts as a deliberate barrier to trade and business and ultimately, is a means to hit the commercial viability of day-to-day live animal transit trade, a trade, which the Council emphasised, had been upheld by the High Court as a legitimate one which must be facilitated by the port.
28. The Council provided the Commissioner with a copy of correspondence which they had received from the legal representatives of one of the compensated claimants, in which it is stated that their clients *'did not wish to become a target for fanatical individuals and groups who vehemently oppose the livestock trade'*. The Council contended that the taking of violent and targeted action against identifiable companies, staff and drivers involved in the livestock trade explicitly served to hit the operational viability of those companies and stated that legitimate

democratic demonstration against live-animal transit *'does not require a hit-list of compensated parties to qualify'*.

29. In their submissions to the Commissioner the Council stated that out-of-court settlements constitute information of a highly sensitive commercial and legal nature. They advised that counsel to one of the claimants had outlined that a disclosure of the withheld information would damage their business and the Council explained that the damaged parties came to a settlement in expectation that no disclosure would be made and did not factor in any material impact of a prospective disclosure of such settlements. *'It was, in the strictest of terms, a private agreement to move forward'*.
30. The Council stated that the loss of confidentiality itself would be a harm, and it is likely that the commerce and ability to trade of the claimants would be hampered by way of wholly unexpected publicity directed at them due to their undertaking a controversial trade. The Council acknowledged that two of the seven compensated parties were already identifiable in the public domain but maintained that *'the increased risk of a threat is in no way diminished'*.
31. The Commissioner is satisfied that the disclosure of the withheld information would be detrimental to the five claimants concerned as it would be highly likely to make the identified claimants targets for non-peaceful and obstructive protest activity and thus adversely impact upon their commercial operations. The Commissioner recognises that it is possible that some of the five claimants may already be potentially identifiable in the public domain as being involved in the live-animal transit trade, and she acknowledges that the identities of Barco De Vapor and Trevor Head (who must both be assumed to be also liable to such violent and targeted action as the five unidentified claimants) are already in the public domain. However, the Commissioner notes that two of the claimants were only identifiable because the nature of their settlements (High Court judgment and Consent Order) meant that no confidentiality could attach to their identities. The position is clearly very different in respect of the five out-of-court settlements, which took place in circumstances which imported a widely recognised and accepted obligation of confidence.
32. For the reasons explained above, the Commissioner is satisfied that the withheld information was provided by the five claimants with the clear and reasonable expectation that it would be treated confidentially and moreover that disclosure of the information would be detrimental to the claimants.
33. Although section 41 is an absolute exemption, the law of confidence contains its own built-in public interest test with one defence to a breach of confidence action being that disclosure is in the public interest.

Public interest arguments provided by the complainant

34. The complainant stated that the public interest in the issue of live animal exports is strong, extensive and very significant, having been *'debated in Parliament, been subject to a Government investigation, been a subject of a House of Commons Library Briefing Paper and been included in the election manifestos of 3 national political parties'*. He noted that live animal exports had also been the subject of debates and reports in the European Parliament.
35. The complainant contended that the payment of an extremely large amount of compensation, funded by council taxpayers, to live animal exporters was therefore of great public interest *'because it adds to and informs the ongoing and extensive public and political debate and will undoubtedly inform and influence public policy and law making'*.
36. The complainant contended that the disclosure of the total compensation figure by the Council was not sufficient to satisfy the public interest. He stated that, *'the ban on live animal exports from Ramsgate Port, which led to the payment of £5.1 million³ damages, lasted just 33 days. This is an extremely large amount of compensation for such a short period. It is in the public interest to break down the total figure⁴ and reveal the names of the claimants and the amount of compensation that they were paid in order that the public can make a judgement if the amounts of compensation were reasonable in relation to the role the claimant played in this particular trade'*. The complainant submitted that the disclosure of a detailed breakdown would make the Council more accountable and transparent with regard to how it used a significant amount of taxpayers' money and would allow the public *'to make a more informed judgement about whether or not this money was spent reasonably and wisely, or recklessly, e.g. overpayments'*.
37. It was submitted by the complainant that the Commissioner needed to consider that the payment of the compensation *'was a consequence of maladministration and/or negligence'* by the Council, and he suggested that release of the withheld information *'could lead to further public debate and investigation which may lead to improvements in the way in which Thanet Council deals with future compensation claims so securing better financial management'*.

³ In actual fact the total amount of compensation paid by the Council (not including legal costs) was £4,692,630.04

⁴ As noted, the Council subsequently disclosed a breakdown of the total figure but continued to withhold the identities of those five parties who reached out-of-court settlements

38. The complainant advised the Commissioner that he was unaware of any other local authority having paid out such a huge sum for unlawfully breaching EU free trade rules and contended that, *'it is therefore important that as much information about the financial consequences of this action is made available'*. The complainant submitted that the Commissioner should take greater account of the public interest related to financial accountability and transparency of public bodies.
39. Finally, it was contended by the complainant that because of the compensation payments made, the Council had *'been forced to reduce its reserves to just £6 million, when CIPFA⁵ advice and comparison with neighbouring councils require it to be in the region of £20 million'*. The complainant contended that, *'this difficult and worrying financial situation is clearly a direct consequence of the £5.1 million damages payments made by Thanet Council and provides strong support for the release of the information I have requested'*.

Public interest arguments provided by the Council

40. In submissions to the Commissioner the Council contended that the public interest in transparency and accountability of the costs of the unlawful ban had already been served as the Council had disclosed the top-line figure (£4,692,630.04) the number of parties awarded damages (seven) was known and the compensation had been paid lawfully following a finding by the High Court. However, to demonstrate maximum transparency the Council provided the complainant with the individual compensation payment amounts. The Council advised the Commissioner that should they be required to disclose the residual withheld information (the names of the five parties concerned) then they would, in turn, be obliged to respond to the increased risk of dangerous protest and criminal actions, with further security at a cost to the taxpayer. This would not be in the public interest.
41. The Council submitted that given that the facts of the case are publicly known, and they have publicly disclosed the total amount of compensation paid to the live-animal exporters who suffered damages as a result of the unlawful ban, and subsequently the individual compensation amounts paid to the five out-of-court claimants, the public interest in transparency and accountability had been served, and they questioned what purpose could be served by the disclosure of the identities of the out-of-court compensated claimants, other than to disrupt their commercial interests. The Council noted that disclosure of the withheld information *'would not shed light on the actions of the*

⁵ The Chartered Institute of Public Finance and Accountability

Council or how it handled these settlements' and they saw no public interest argument for identifying the affected parties. The Council acknowledged that, as the High Court judgement had found, they had regrettably damaged the businesses concerned and contended that those businesses should not be further damaged by way of breaching confidentiality.

42. The Council noted that disclosure of the information could not further the cause in protesting the live-animal transit trade, such as by canvassing support or lobbying the Council or Parliament, and stated that the disclosure sought by the complainant seemed *'less about ensuring proportionate damages were awarded, bearing in mind the top-line figure has been disclosed, but seems to explicitly concern itself, instead, with the identification of those, in the minds of some, who were provided remedy which is fundamentally, in any instance, disagreeable to them'*.
43. The Council provided the Commissioner with a copy of correspondence which they had received from the legal representatives of one of the compensated claimants in which it was stated that, *'there can be no legitimate reason why third parties need to know the identity of the claimants or the precise terms of settlement in each case, as opposed to the overall expenditure on these claims generally'*.
44. The Council submitted that the wider public interest benefits to out-of-court settlements needed to be recognised, and advised that had the compensation been paid in circumstances which did not import an obligation of confidence then the settlement amounts would have been higher in order to compensate further commercial detriment. By way of explanation the Council advised that the compensation paid to the parties did not extend itself to remedying, for example, any costs associated with a media fall-out or public relations expenses. Rather it permitted those damaged companies to move forward with compensation as a means to privately remedy damage caused by the ban.
45. The Council submitted that disclosure of the withheld information in this case could well dissuade third parties from engaging in any future confidential settlements of any kind. The Council contended that if they could not show that they were able to maintain an obligation of confidence then this would create anxieties with third parties when reaching settlements and such an outcome would only serve to harm the public purse.
46. In submissions to the Commissioner the Council addressed the assertions made by the complainant as to the Council's financial position, which they confirmed were not accurate. The Council advised that their reserves were not directly reduced as a means of paying the

compensation payments and nor was the Council 'forced' to reduce such reserves in making the payments. The Council fully accepted that the payments had had a significant and publicly acknowledged impact on the balance sheet, but stated that depleted reserves are a consequence of a much broader financial and policy landscape.

47. The Council stated that although their budget is under severe pressure, this is not unique to local government. They advised the Commissioner that, *'the welfare needs, bearing in mind the distinct social issues in this region and an aging population, are eagerly and responsibly being addressed at great expense by this authority'*. The Council stated that social housing, as with other parts of the UK, and the south-east of England in particular, is receiving major investment from the Council as a priority, and the Council has embarked on an ambitious multi-million pound regeneration of Margate, an area suffering significant levels of poverty, deprivation and an above average crime rate.
48. Therefore, whilst they were in a position where they were seeking to secure savings and rely on reserves, the Council contended that pressures on funding and Council reserves *'cannot be associated directly with the compensation payments'*. The Council noted that there is a much wider picture, e.g. the more than 10 per cent cutting of the central government funding grant in the 2017/18 budget, and that picture does not support or provide any enhanced public interest in the disclosure of the withheld information. The Council stated that the disclosure of the names of five of the seven compensated parties would not serve to address the enhanced public interest claimed by the complainant.

Balance of the public interest arguments

49. The Commissioner recognises that the live-animal transit trade is very controversial and one which evokes strong feelings and debate, not just in Thanet but also, as the complainant has stated, at a national level in the UK Parliament. As the High Court judgement noted⁶, the *'animal export trade is not popular'* and *'it involves activities which are highly distasteful to many people'*. Indeed, the Commissioner notes that the High Court found that the Council's real reason for implementing the ban was not to secure the safe operation of the port of Ramsgate, but rather to stop the shipment of livestock through the port because of animal welfare concerns.

⁶ Paragraph 192 of the Judgement

50. The Commissioner considers that there will clearly be a strong and significant public interest in any information which would help inform or educate the public as to the reasons for, and the realities of, the exporting of live animals, such as takes place from the port of Ramsgate and elsewhere in the UK.
51. Similarly, the Commissioner also recognises that where, as in this case, a public authority has been found to have acted unlawfully by the High Court, and has been required to pay considerable sums of compensation to damaged parties as a result, there will be an important and compelling public interest in any information which would show how and why such a situation could have arisen and who was responsible for the decisions made and actions taken. The Commissioner notes that that public interest has already been served by the information publicly recorded in the detailed High Court judgement.
52. Crucially, disclosure of the withheld information in this case, specifically the identities of the five claimants who reached out-of-court settlements with the Council, will not serve or advance any of the legitimate public interests identified above. The Commissioner considers that the public interest in transparency and accountability clearly demands that the Council disclose how much compensation they have so far been required to pay to the animal exporters who suffered commercial damage as a result of the Council's unlawful ban, since this clearly impacts upon the Council's finances, albeit not in the way asserted by the complainant. However, the Council have proactively disclosed the total compensation amount (£4,692,630.04) and have subsequently disclosed the individual amounts of compensation paid to the five out-of-court claimants. Therefore the financial consequences of the Council's decision to implement the ban which was later found to be unlawful are already abundantly clear.
53. The disclosure of the names of the five out-of-court claimants, without more, would not, contrary to the complainant's contention, enable the public to make *'a more informed judgement'* about whether the money was spent reasonably or recklessly. The fact is the Council was required to pay compensation as a result of their imposition of an unlawful ban and the Council have confirmed, as would be expected, that the settlement payments were made following appropriate legal advice. The Commissioner notes that there is no evidence to suggest that the Council have paid the damaged parties more than that to which they were legally entitled following the High Court judgement.
54. The Commissioner notes that the complainant has failed to provide any evidence to support his assertion that the payment of the compensation *'was a consequence of maladministration and/or negligence'* by the Council and in any case, the disclosure of the named claimants, without more, would not be capable of establishing either.

55. With regard to the complainant's suggestion that the total amount of compensation paid is '*an extremely large amount of compensation for such a short period*', the Commissioner notes that as the High Court judgement recorded⁷, the ban coincided with the Muslim festival of Eid, which will have clearly impacted upon the commercial losses suffered by the claimants and thus the amount of compensation paid by the Council.
56. The Commissioner does not accept the complainant's argument that the strength of the public interest in this case is such that the withheld information being protected '*by only*' a quality of confidence is an insufficiently robust justification to prevent the disclosure of the identities of the five out-of-court claimants.
57. Firstly, the preservation of confidences (either explicit or implied) is recognised by the courts to be an important matter and one in which there is a strong public interest. The Commissioner considers that if the Council were to disclose the names of the five parties who were paid compensation in out-of-court settlements, which took place in widely and well recognised circumstances of confidentiality, then there is a real risk, as the Council have contended, that third parties would be dissuaded from engaging with the Council in settlements of this type in the future. Such a wider outcome would not be in the public interest, since it would constrain the Council's ability to achieve financially proportionate outcomes in dispute resolution.
58. Secondly, the Commissioner does not accept that there is anything revelatory in the withheld information from a public interest perspective. The financial consequences and scale of the decision by the Council to impose the unlawful ban is already clear from information (the total compensation figure) provided to the public by the Council. The public can form their own view and judgements as to the Council's actions in this matter from that information and the findings of the High Court judgement. The Commissioner does not consider that disclosure of the names of the five parties concerned would appreciably advance a public interest in this matter which has already been proportionately and appropriately addressed by the Council.
59. Conversely, the Commissioner does consider that disclosure of the identities of the out-of-court claimants would be highly likely to have

⁷ Paragraph 5 of the Judgement

detrimental consequences for them. It would expose them to the risk (or increase an existing risk) of violent and unlawful behaviour and actions by groups and individuals (other than lawful and peaceful protesters) who target such operators and who seek to disrupt and halt their commercial operations.

60. In conclusion, the Commissioner is wholly unpersuaded by the complainant's arguments, mainly because these are largely misconceived given the actual withheld information in question. The Commissioner is entirely satisfied that the negligible public interest in disclosing the withheld information (as opposed to the strong public interest in the background issue) would not provide the Council with a public interest defence to a claim(s) for breach of confidence.

Right of appeal

61. 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: 0870 739 5836
Email: GRC@hmcts.gsi.gov.uk
Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

62. 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.

63. 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

**Gerrard Tracey
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