



**Upper Tribunal (Administrative Appeals Chamber)**

Appeal Number: GI/2146/2010 ; Neutral Citation Number [2012] UKUT 313 (AAC)

Comprising 7 transfers by the First-tier Tribunal of appeals from  
decision notices issued by the Information Commissioner (see Open Annex 1)

INFORMATION RIGHTS:

OPEN ANNEX 4 to the decision dated 18 September 2012:

Personal information about individuals

12 October 2012

Before

Mr Justice Walker

Upper Tribunal Judge John Angel

Ms Suzanne Cosgrave

Between

Rob Evans (Appellant)

-and-

Information Commissioner (Respondent)

Concerning correspondence with Prince Charles in 2004 and 2005

Additional Parties:

- (1) Department for Business, Innovation and Skills
- (2) Department of Health
- (3) Department for Children, Schools and Families
- (4) Department for Environment, Food and Rural Affairs
- (5) Department for Culture, Media and Sport
- (6) Northern Ireland Office
- (7) Cabinet Office

Upper Tribunal (AAC):  
*Evans v Information Commissioner (Correspondence with Prince Charles in 2004 and 2005)*

Open Annex 4 to the decision dated 18 September 2012:

Personal data of individuals

12 October 2012

1. In our decision and reasons dated 18 September 2012 we explained at paragraph 9 that:
  - (1) We had given directions so that a decision could be made identifying information to be disclosed to Mr Evans, along with the terms of substituted decision notices.
  - (2) When that decision was made we would publish a further open annex on the principles governing redaction as regards individuals other than Prince Charles.
  - (3) Arrangements had been made for a closed annex setting out our analysis of the disputed information and the evidence and arguments dealt with in closed session.
  - (4) If there is no appeal against our decision, or any appeal is unsuccessful, then certain parts of the closed annex will no longer need to remain closed, and these will be in a conditionally suspended annex.
2. In accordance with our directions the Departments, the Commissioner, and Mr Evans have lodged open submissions on the principles which govern whether there should be such redactions. In addition, however, Mr Evans has submitted that we should either
  - (1) impose a procedural bar, refusing to allow the Departments to seek redactions, even if the Act and the Regulations would permit them; or
  - (2) adopt a staged procedure, under which we would defer a final decision on redactions until Mr Evans has seen provisionally redacted versions of the information that we consider should be shown to him.
3. We have rejected the first of these submissions, but have accepted the second. Our procedural decision dated 12 October 2012 has been published with reasons which explain the considerations which have led us to take this course. In essence they are that a procedural bar would be unfair to the individuals in question, while a staged procedure will in our view be fair to all concerned.
4. The staged procedure will have the advantage that Mr Evans will have sight of “provisionally redacted” versions of the information that we consider should be shown to him. The documents in question will thus have “provisional redactions”. The “provisional redactions” will be those which concern personal data about individuals other than Prince Charles, and which the Departments contend should not be disclosed by reason of section 40 or regulation 13. They will be clearly identified so as to

distinguish them from any other redactions which we may have determined should be made on other grounds. In this way Mr Evans will be able to decide whether he is content to accept the provisional redactions. If he is not content, then he and the other parties will be able to suggest open and closed procedures which, having regard to the provisionally redacted documents, will best enable the tribunal to examine the Departments' contentions about them in a manner which is fair to all concerned.

5. So far as the present annex is concerned, the submissions we have received have identified issues between the parties of a general nature. We think it best for those issues to be revisited in the context of the provisionally redacted documents. In that regard we draw attention to the importance of considering whether appropriate procedures could be devised so as to notify potentially affected individuals and seek their views on what may constitute personal data in relation to them, whether they have objections to it being published, and if so whether there are particular reasons for this which the tribunal should be aware of. It is possible that some individuals may be content for some or all of the relevant personal data to be disclosed. If they are not content for the relevant personal data to be disclosed, then they may identify particular reasons why, in addition to more general matters, disclosure in their case would be contrary to section 40 or regulation 13.
6. For all these reasons, in the present annex we determine only that principles governing redaction of personal data concerning individuals other than Prince Charles should be dealt with at a later stage, in accordance with our procedural decision and reasons dated 12 October 2012, [2012] UKUT 340 (AAC).

Signed:

Paul Walker

John Angel

Suzanne Cosgrave

12 October 2012