



**First-Tier Tribunal  
(General Regulatory Chamber)  
Information Rights**

**Appeal reference: EA.2021.0024**

**Between**

**Wirral Borough Council**

Appellant

**and**

**Information Commissioner**

First Respondent

**and**

**Mr John Brace**

Second Respondent

**CASE MANAGEMENT DIRECTIONS**

*Joining the Original Requester to the appeal*

1. Mr John Brace is made a party to this appeal as the Second Respondent.

*Appeal documents*

2. Documents in an appeal are open to parties, unless the Tribunal makes an order under rule 14<sup>1</sup>:
  - 2.1 If a Registrar or Judge has already made an order under rule 14, the Tribunal will now consider whether that order should be varied;
  - 2.2 If no order has been made and a party considers that some documents should not go to Mr John Brace, that party must, no later than **05 March 2021**, write to the Tribunal (copy to the Information Commissioner's Office) clearly stating:
    - 2.2.1 What document(s) they consider should be withheld from the newly joined party;
    - 2.2.2 Why they consider the conditions of rule 14 are met for the document (or each document).

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<sup>1</sup> You may find it helpful to refer to the Practice Note on Closed Material available here: <https://www.judiciary.gov.uk/publications/practice-note-closed-material-in-information-rights-cases/>

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3. Tribunal staff will send a copy of the documents in the case so far to Mr John Brace after **05 March 2021**, if no application under rule 14 is made; if an application is made under rule 14 a Registrar or Judge will issue directions, including when documents are to be sent to Mr John Brace.
4. In accordance with the GRC Rules, Mr John Brace must respond to the appeal once they have received the documents:
  - 4.1 Attached with this Case Management Note is the Tribunal's "form of response". Use of the form is not compulsory but is strongly encouraged as, if fully completed, it gives the Tribunal and other parties the information needed to progress the appeal.
5. Each party must copy each other party into any correspondence with the Tribunal; if they feel unable to do this they must explain their reason(s) in their correspondence.

Type of consideration

6. Mr John Brace is asked to note that the appellant has consented to the matter being dealt with on the papers.
7. Due to the current health situation in the UK, the Tribunal is not booking hearings until after the parties have dealt with initial submissions (grounds of appeal, response, opportunity to reply). At an appropriate time, the Tribunal will be in contact about hearing arrangements, in the meantime, please note:
  - 7.1 Hearings will usually be conducted over a secure telephone line;
  - 7.2 Hearings may be dealt with over a live video feed;
  - 7.3 If you are unable / unwilling to participate via one (or both) of the above, you should say so by that date when the Mr John Brace's response is due, including your reasons.
8. Rule 23 of the GRC Rules requires Mr John Brace to state in their response whether they are content for the case to be dealt with without a hearing. If any party does not consent to a paper consideration the GRC Rules require there to be a hearing (see Rule 32(1)(a)).

Progress of case

9. Rule 23(1)(b) of the GRC Rules sets the date for Mr John Brace's response as "28 days after the date on which [Mr John Brace] receives the notice of appeal".

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10. Rule 24(1) of the GRC Rules gives Wirral Borough Council the opportunity to reply to each response within 14 days after the date on which the respondent sends the response to them.
11. If parties wish to change the dates set by the GRC Rules (e.g. to enable the appellant to provide one reply dealing with both responses), they should agree any changes with each other and then write to the Tribunal to ask for extension(s) of time.
12. I am currently of the view that the latest date for the response/reply stages to be completed should be **18 June 2021**; if parties need longer than this they should explain why.

### Bundles

13. A party to whom a document has been provided in an appeal (or application) to the First-tier Tribunal (including those in bundles) may use that document only for the purpose of the proceedings in which it is disclosed, except where the Tribunal gives permission or the party who disclosed the document and the person to whom the document belongs agree – see the Upper Tribunal’s ruling in *DVLA v Information Commissioner and Williams (Rule 14 Order)* [2020] UKUT 310 (AAC)<sup>2</sup>.
14. As the public authority is a party to this appeal, the Tribunal asks that, unless agreed otherwise with the Information Commissioner’s Office, Wirral Borough Council prepares and provides any closed bundle (should a closed bundle be necessary).
15. A closed bundle should only contain:
  - 15.1 The “disputed information”.
  - 15.2 Any information which is necessary for the Judge/Panel to consider and which cannot be in the open bundle, for example:
    - 15.2.1 Unedited copies of any correspondence which is found (in edited form) in the open bundle. The closed bundle index must specify the open bundle pages where that correspondence is found.
    - 15.2.2 Any necessary closed submissions.
    - 15.2.3 Any necessary closed witness evidence.
16. If personal details such as name, email address, telephone numbers of the correspondents need to be kept out of the open bundle it is very unlikely that they need to go into the closed bundle. If a party asks that those sorts of

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<sup>2</sup> <https://www.gov.uk/administrative-appeals-tribunal-decisions/dvla-v-information-commissioner-and-williams-rule-14-order-2020-ukut-310-aac>

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details are in a closed bundle and kept from the open bundle they will need to make an application under rule 14(2) explaining why that party says the information is needed by the Panel and why serious harm would be caused to the person if the detail was in the open bundle.

- 17 The index to the closed bundle must state the page number(s) of any open bundle version of the document AND whether the document is already subject to an order under rule 14 (giving the date of that order) or if the Wirral Borough Council now applies for such order. The Tribunal office can provide a suggested form of Index if requested.

*This decision was made by a Tribunal Caseworker. A party is entitled to apply in writing within 14 calendar days of the date this document is sent to them for this decision to be considered afresh. If you apply later than 14 days you must explain why you are late.*

**Miss L. Collins**

**Tribunal Caseworker, dated 19 February  
2021**