

**Freedom of Information Act 2000 (FOIA)  
Environmental Information Regulations 2004 (EIR)**

**Decision notice**

**Date:** 11 December 2023

**Public Authority:** Danvm Drainage Commissioners  
**Address:** 24 Innovation Drive  
Green Park  
Newport  
East Riding of Yorkshire  
HU15 2FW

**Decision (including any steps ordered)**

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1. The complainant has requested information relating to a named piece of land. Danvm Drainage Commissioners ('the Board') has refused the request under regulation 12(4)(b) of the EIR, which concerns manifestly unreasonable requests.
2. The Commissioner's decision is that the Board is entitled to rely on regulation 12(4)(b) of the EIR to refuse to comply with the request.
3. The Commissioner does not require the Board to take further steps.

**Request and response**

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4. On 5 May 2023, the complainant made the following request for information to the Board:

"Date period: 01/01/2020-present date. To cover, but not limited to, call recordings, text messages, emails, letters, other records held in systems.

- 1) Any correspondence related to the planning application for the sewage treatment package for the property Meadowside, Kirk Bramwith, DN7 5SW.

- 2) Any other planning enquiries or applications related to the same piece of unregistered land as the above application was made for.
  - 3) All correspondence related to the above piece of currently unregistered land.
  - 4) All correspondence related to the registration of the unregistered land referenced above.
  - 5) Any correspondence between Danvm and myself during this time period"
5. The complainant advised that they received the Board's response to their request on 6 June 2023. However, this response was dated 4 April 2023. The Board refused to comply with this request, citing section 14(1) of FOIA (vexatious request).
  6. The complainant wrote to the Board via its solicitors on 8 June 2023, requesting an internal review of the Board's decision.
  7. The Board's solicitors provided the outcome of its internal review on 15 June 2023, maintaining its original position.

### **Scope of the case**

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8. The complainant contacted the Commissioner on 16 June 2023 to complain about the way their request for information had been handled.
9. The Commissioner considered whether the requested information fell within the scope of the EIR rather than FOIA.
10. The Commissioner is of the view that it is likely that the requested information constitutes environmental information as it is information relating to land owned by the Board and planning applications for that land. The Commissioner therefore believes that the requested information is likely to be information on measures affecting or likely to affect the elements and factors referred to in regulation 2(1)(a), (b) or (c) of the EIR.
11. The Commissioner wrote to the Board with his view and the Board advised that it was happy to consider the request under the EIR. It maintained its original position in refusing to comply with the request for information. In its view, the request falls under regulation 12(4)(b) on the basis that it is manifestly unreasonable.

12. The Commissioner therefore considers the scope of his investigation is to consider whether the information requested is exempt from disclosure under regulation 12(4)(b).

## Reasons for decision

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### Regulation 12(4)(b) of the EIR – manifestly unreasonable

13. Regulation 12(4)(b) of the EIR states that a public authority may refuse to disclose environmental information to the extent that the request for information is manifestly unreasonable. There is no definition of 'manifestly unreasonable' under the EIR, but the Commissioner's opinion is that 'manifestly' implies that a request should be obviously or clearly unreasonable for a public authority to respond to in any other way than applying this exception. The Commissioner has published guidance<sup>1</sup> on regulation 12(4)(b).
14. The complainant has argued that their request can be reasonably considered as valuable to the wider public, as it relates to a section of unregistered land where ownership is currently disputed, as well as the installation of a sewage treatment plant in a rural location.
15. In this case, the Board has stated that complying with the request in this case would cause an unjustified burden. That is therefore the key thing the Commissioner will consider; whether complying with the request is likely to cause a burden to the Board that is disproportionate to the request's value.
16. The Board has provided the Commissioner with a chronology of the extensive correspondence between the complainant and the Board and considers the complainant's correspondence to be vexatious according to the Board's own policy.
17. In summary, the complainant was the Board's tenant, renting Board-owned land for a Farm Business Tenancy. Following a dispute with a neighbour, and escalating communication with the Board, the complainant failed to pay rent that was due, and the Board therefore forfeited the tenancy and took possession of the land. Soon after, the Board states that the complainant blocked Board employees who had entered the land to undertake maintenance. The Board states that the

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<sup>1</sup> <https://ico.org.uk/media/for-organisations/documents/1615/manifestly-unreasonable-requests.pdf>

complainant subsequently removed the Board's gate, chain and locks, which have not been returned. The Board confirmed that it is currently taking legal action against the complainant, claiming damages in nuisance, trespass and unlawful imprisonment, and damages for breach of Land Drainage Byelaws.

18. The Board believes that the complainant's request for information should be seen in the context of an unfounded and unreasonable campaign against the Board and its employees, which has culminated in what it considers to be breaches of criminal and civil law and the Board's Byelaws.
19. The Board considers the request for information to be vexatious, and with no public interest. It stated that the information requested is either already in the complainant's possession or is publicly available on the local planning authority's website. The Board is therefore of the view that the resources that it would use in compiling the requested information would be disproportionate.
20. It explained that to comply with the request would require an officer of the Board to compile correspondence in various forms including legal advice (which would have to be assessed as to legal privilege), emails, phone calls, letters, meeting minutes etc. The Board considers the request to be specifically aimed at causing a burden to the Board rather than a genuine attempt to obtain information.
21. The Board explained that it is a public authority funded by ratepayers and homeowners in its district and is accountable to its members for the allocation of expenditure of public funds.
22. The Board considers the purpose of the request, in the context of the ongoing behaviour of the complainant, to be to pursue a personal grudge against the Board rather than exercise legal rights. The Board stated that in the last year, the complainant had directed unfounded allegations of corruption and personal insults at staff and repeatedly made contact with the Chairperson via their personal phone despite being asked to stop.
23. The Commissioner recognises that the request in isolation does not appear to be manifestly unreasonable.
24. However, the Commissioner recognises that between 22 September 2022 and the date of the request for information there have been a large number of communications (approximately 50) between the complainant and the Board. The Commissioner understands that these communications included:
  - requests for details of the current and future tenancy

- requests that sale of part of the land be discussed at Board meetings,
  - requests for the status of land drainage consent,
  - requests for the details of the committee considering the land ownership/tenants,
  - requests for details of Board meetings,
  - requests for details of the specific individual dealing with the land registration,
  - requesting financial information about the Board and a consortium,
  - requesting clarification on meetings attended, specifically about the right to water, land ownership, dispute resolution and confirmation of notice period,
  - requesting clarification of the Board's land appraisal process and financial records,
  - requesting the tenancy is referred to an expert as in dispute,
  - asking whether a named individual is an employee,
  - complaints about neighbours,
  - offers to purchase the land,
  - concerns about the treatment plant, and
  - disputing the land ownership.
25. From the information provided to the Commissioner, it appears that the complainant's concerns about the ownership of the land have become something of a fixation. This has resulted in the complainant submitting a high volume of correspondence to the Board over a nine-month period.
26. It would appear that to respond to the complainant's request would be unlikely to satisfy the complainant and they would be likely to continue to communicate with the Board about the disputed land, continuing to drain the Board's finite resources.

27. Taking the holistic approach referred to in the Commissioner's guidance on 'Vexatious requests under FOIA'<sup>2</sup> (which is itself referred to within the Commissioner's guidance on regulation 12(4)(b) of EIR<sup>3</sup>), the Commissioner considers that the impact on the Board's resources is disproportionate in relation to the request, as the request itself has minimal value and its inherent purpose appears to be to pursue a personal agenda against the Board. He finds that the Board was entitled to apply regulation 12(4)(b) to the request and has next considered the public interest test associated with regulation 12(4)(b).

### **Public interest test**

28. The Board considers there to be no public interest in it expending resources copying and disclosing information already held by, and made publicly available by, another public authority, in this case information related to planning applications. The Board stated that the complainant has commented on planning applications related to the land in question and has therefore demonstrated their knowledge of the information available on the Planning Portal.
29. The Board stated that it has a Privacy Policy setting out how individuals' information may be held by the Board and under what circumstances. It stated that this is published on the Board's website and is publicly available, and includes rights of individuals, contact information and complaints procedures. It argued that the complainant has not made any attempts to use this procedure. The Board therefore considers there to be no public interest in providing information that it knows the complainant already has in their possession, especially as the Board has a dedicated policy for dealing with such matters.
30. The Board also argued that the complainant has made no attempt to follow its policy, despite it being publicly available and, in its view, this demonstrates the complainant's motives to be vexatious rather than a genuine attempt to exercise their rights.
31. The Commissioner agrees with the Board. He hasn't been persuaded that the complainant's request has a great deal of value and, indeed, has found it to be manifestly unreasonable. The Commissioner is satisfied that relevant planning information would be available to complainant by other means available. If the complainant has concerns

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<sup>2</sup> [How do we deal with a single burdensome request? | ICO](#)

<sup>3</sup> [Manifestly unreasonable requests - Regulation 12\(4\)\(b\) \(Environmental Information Regulations\) | ICO](#)

about a planning application or disputes the ownership of the land, then there are more appropriate routes they can follow, for example through the Local Planning Authority or Local Government Ombudsman.

32. The Commissioner's decision is therefore that there is greater public interest in the Board being able to rely on regulation 12(4)(b) of the EIR to refuse the request in this case.

## Right of appeal

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33. 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: 0203 936 8963

Fax: 0870 739 5836

Email: [grc@justice.gov.uk](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

34. 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.
35. 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 .....**

**Pamela Clements**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**