

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

Date: 12 March 2025

Public Authority: Pembrokeshire County Council
Address: County Hall
Haverfordwest
Pembrokeshire
SA61 1TP

Decision (including any steps ordered)

1. The complainant requested a particular report referred to in a Cabinet Meeting relating to a project at South Quay. Pembrokeshire County Council refused to comply with the request on the basis that it was vexatious and cited regulation 12(4)(b) of the EIR (manifestly unreasonable). The Commissioner's decision is that the Council was entitled to rely on regulation 12(4)(b) to refuse the request. The Commissioner does not require any steps.

Request and response

2. On 13 August 2024, the complainant wrote to the Council and requested information in the following terms:

"In your report to Cabinet of 11TH July you referred to a report by external consultants History Ventures Ltd.

Please would you disclose this report together with the cost of its preparation."

3. The Council responded on 23 August 2024 and stated that it was refusing the request under regulation 12(4)(b) of the EIR as it considered the request to be vexatious.
4. On 17 September 2024 the complainant requested an internal review of the Council's refusal to provide the information requested.
5. The Council provided the outcome of its internal review on 24 September 2024 and upheld its position that regulation 12(4)(b) applied to the request.

Scope of the case

6. The complainant contacted the Commissioner on 26 September 2024 to complain about the way their request for information had been handled.
7. The scope of the Commissioner's investigation into this complaint is to determine whether the Council correctly applied regulation 12(4)(b) to the request.

Reasons for decision

Regulation 12(4)(b) – manifestly unreasonable requests

8. Under Regulation 12(4)(b), a public authority can refuse to disclose environmental information if the request for information is manifestly unreasonable. A request may be manifestly unreasonable either because of the excessive burden it would require in order to comply with it, or because the request is vexatious.
9. In this case, the Council is relying on regulation 12(4)(b) of the EIR as it considers the request to be vexatious. The Commissioner has therefore considered the extent to which the request could be considered vexatious.

Is the request manifestly unreasonable?

10. The Commissioner's guidance on manifestly unreasonable requests¹ clarifies that the test for a vexatious request under the EIR is essentially

¹ <https://ico.org.uk/for-organisations/foi/freedom-of-information-and-environmental-information-regulations/regulation-12-4-b-environmental-information-regulations-manifestly-unreasonable-requests/>

the same as that under the FOIA. The ICO's guidance on section 14(1) defines 'vexatious' as the:

"...manifestly unjustified, inappropriate or improper use of a formal procedure." (paragraph 27 of the Upper Tribunal's decision in Dransfield).²

11. This clearly establishes that the concepts of "proportionality" and "justification" are central to any consideration of whether a request is vexatious. In essence, does the wider value of the information being disclosed outweigh the burden created, or the vexatious factors associated with the request.
12. The Upper Tribunal in the Dransfield case suggested four broad themes which might indicate that a request is vexatious:
 - the burden (on the public authority and its staff);
 - the motive (of the requester);
 - the value or serious purpose (of the request); and
 - any harassment or distress (of and to staff).

The Council's position

13. The Council considers that the request in this case is part of a series of requests relating to the South Quay Development. In its refusal notice and internal review, the Council referred to a previous decision notice issued by the Commissioner on 5 August 2024³ (reference IC-306516-D3W4). This decision notice related to a previous request from the complainant dated 14 January 2024 on the subject of the South Quay Development. The Commissioner upheld the Council's application of regulation 12(4)(b) to this previous request.
14. In its response to the earlier request dated 14 January 2024 the Council advised the complainant that, in light of the history and context of their communications and request on the subject matter, spanning a period of 10 years, it would not respond to any further requests on the same of similar subject matter.

² <https://www.bailii.org/ew/cases/EWCA/Civ/2015/454.html>

³ <https://ico.org.uk/media2/migrated/decision-notices/4030672/ic-306516-d3w4.pdf>

15. The Council considers that its representations in relation to its application of regulation 12(4)(b) to the request dated 14 January 2024 equally apply to the request which is the subject of this notice.
16. The Council considers that the request is an attempt to reopen matters relating to the subject matter and is of the view that further engagement with the complainant on the issue would lead to further communications and requests for information.

The Commissioner's conclusion

17. The Commissioner has considered the request which is the subject of this notice, in conjunction with the previous complaint he dealt with under reference number IC-306516-D3W4. He notes that the request was submitted around 7 months after the earlier request, and just over a week after he issued his decision notice in relation to the earlier request. Based on the wording of the requests and the Council's representations, the Commissioner accepts that the request is a continuation of a pattern of correspondence and behaviour linked to the same subject matter, ie the South Quay Development.
18. In reaching a decision in this case the Commissioner has considered the arguments and representations submitted by the Council. These arguments were considered by the Commissioner in his previous decision notice referred to in paragraph 13 above where he accepted that regulation 12(4)(b) applied to the previous request.
19. The Commissioner has determined that, based on his decision in case IC-306516-D3W4, the same conclusion should be reached in regard to this request, and for the same reasons. The Commissioner's decision is therefore that the Council was entitled to refuse the request on the basis of regulation 12(4)(b) of the EIR.

Right of appeal

20. 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

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

21. 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.
22. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Joanne Edwards
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Information Commissioner's Office
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Water Lane
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