

## **Environmental Information Regulations 2004 (EIR)**

### **Decision notice**

**Date:** 9 May 2025

**Public Authority:** Pentir Community Council  
**Address:** Fferm Tan y Weirglodd  
Rhiwlas  
Bangor  
LL57 4EH

#### **Decision (including any steps ordered)**

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1. The complainant has requested information from Pentir Community Council (the Council) which relates to Treborth Hall.
2. The Commissioner's decision is that the Council was not entitled to combine the burden of six requests when citing regulation 12(4)(b) to refuse to comply with the request dated 22 February 2024.
3. The Commissioner requires the Council to take the following steps to ensure compliance with the legislation.
  - Issue a fresh response to the request dated 22 February 2024 which does not rely on regulation 12(4)(b).
4. The Council must take these steps within 30 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Act and may be dealt with as a contempt of court.

#### **Request and response**

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5. On 22 February 2024, the complainant wrote to the Council and made a request in the following terms:

"All Community Council records or any other records held by Pentir Community Council that contain any mention of Treborth Hall/Ysgol Coed Menai/Ysgol Treborth and both access roads leading to this property from the Menai Bridge and Treborth Road (A487).

This request for information includes but is not limited to signs, gates and notices.

This request for information includes correspondence from members of the public e.g. letters or emails."

6. Following a decision notice from the Commissioner, the Council responded to the request on 27 June 2024. It stated that minutes of proceedings were available online, minutes for the Finance Committee would be sent under a separate email and that the remaining information was being withheld under "section 4(e)" and "Regulation 3" of the EIR due to the cost limit being exceeded when dealing with the request. It also advised that it no longer held copies of evidence from the community relating to the usage of footpaths by Treborth.
7. On 28 June 2024, the complainant made a request for internal review.
8. The Council responded to the request for internal review on 8 July 2024. It explained that the Finance Committee minutes had now been sent and that it was now refusing to comply with the remaining parts of the request in line with regulation 12(4)(b).
9. The complainant raised further concerns with the Council on 8 July 2024 regarding information not being provided. They later requested a further internal review on 26 July 2024.
10. Following an internal review the Council wrote to the complainant on 21 August 2024, it stated that it was now "aggregating" the complainant's request under regulation 12(4)(b) with five other requests the Council had received. The Commissioner has outlined these five further requests in his annex at the bottom of the document.

## **Scope of the case**

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11. The complainant contacted the Commissioner on 11 November 2024 to complain about the way his request dated 22 February 2024 had been handled. The complainant did not raise any concerns regarding the three other requests that they made to the Council.
12. During the Commissioner's investigation, the Council advised that it believed it had provided all the requested information within the scope

of the request, but in order to confirm definitely, it would place a manifestly unreasonable burden on it. It explained that this was due to five further requests being received by the complainant and a third party.

13. The Commissioner considers the scope of his investigation to determine whether the Council was entitled to rely on regulation 12(4)(b) when refusing to respond to the request dated 22 February 2024.

## **Reasons for decision**

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### **Is the requested information environmental?**

14. Regulation 2(1) of the EIR defines environmental information as being information on:
  - (a) the state of the elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites including wetlands, coastal and marine areas, biological diversity and its components, including genetically modified organisms, and the interaction among these elements;
  - (b) factors, such as substances, energy, noise, radiation or waste, including radioactive waste, emissions, discharges and other releases into the environment, affecting or likely to affect the elements of the environment referred to in (a);
  - (c) measures (including administrative measures), such as policies, legislation, plans, programmes, environmental agreements, and activities affecting or likely to affect the elements and factors referred to in (a)...as well as measures or activities designed to protect those elements;
  - (d) reports on the implementation of environmental legislation;
  - (e) cost-benefit and other economic analyses and assumptions used within the framework of the measures and activities referred to in (c); and
  - (f) the state of human health and safety, including the contamination of the food chain, where relevant, conditions of human life, cultural sites and built structures inasmuch as they are or may be affected by the state of the elements of the environment referred to in (a) or, through those elements, by any of the matters referred to in (b) and (c);

15. As the requested information is information relating to road access and footpaths, the Commissioner believes that the requested information is likely to be information on measures affecting or likely to affect the elements of the environment. For procedural reasons, he has therefore assessed this case under the EIR.

### **Regulation 12(4)(b) – Manifestly unreasonable requests**

16. Regulation 12(4)(b) states that: “For the purposes of paragraph (1)(a), a public authority may refuse to disclose information to the extent that— (b) the request for information is manifestly unreasonable;”
17. The Commissioner has issued public guidance on the application of regulation 12(4)(b)<sup>1</sup>. This guidance contains the Commissioner’s definition of the regulation, which is taken to apply in circumstances where either the request is 1) vexatious, or 2) where the cost of compliance with the request would be too great. If engaged, the exception is subject to a public interest test.
18. In this case, the Council considers that circumstance 2) is applicable.
19. The EIR do not provide a definition of what is manifestly unreasonable in terms of cost. This is in contrast to section 12 of the Freedom of Information Act 2000 (“FOIA”), under which a public authority can refuse to comply with a request if it estimates that the cost of compliance would exceed the “appropriate limit”.
20. However, the FOIA “appropriate limit” can be a useful starting point in considering whether a request for environmental information can be refused as being manifestly unreasonable.
21. The FOIA appropriate limit is defined in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 (“the Fees Regulations”). These define the cost a public authority is expected to absorb in complying with a request. That cost is £450 for the Council.
22. The Fees Regulations state that staff time must be calculated at a notional rate of £25 per hour. This means that, under FOIA the Council would usually be able to refuse requests that would require in excess of 18 hours of staff time to fulfil.

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<sup>1</sup> [Manifestly unreasonable requests - Regulation 12\(4\)\(b\) \(Environmental Information Regulations\) | ICO](#)

23. However, the FOIA cost limit is only a starting point. The public authority also needs to consider its relative size (larger public authorities should be expected to bear larger burdens) and the value of the information that might be disclosed. Given that the burden must be manifestly unreasonable, as a general rule, the Commissioner also expects public authorities to accept a higher burden for requests for environmental information compared to the "reasonable" limit for FOIA requests.
24. Whether considering a cost estimate under either FOIA or the EIR, the Commissioner expects any estimate to be realistic, sensible and supported by cogent evidence. He also expects that, where possible, a sampling exercise will have been carried out.
25. In respect of the aggregation of requests under the EIR, the Commissioner's guidance explains the following:

"Furthermore, as the FOIA fees regulations do not apply under the EIR, there is no specific provision for the aggregation 'of substantially similar' requests. Our position, however, is that there may be occasions where it is permissible to consider a number of EIR requests together when deciding if they are manifestly unreasonable because of cost or burden. This is in line with the approach to requests considered manifestly unreasonable on the grounds that they are vexatious in the wider sense, where the context in which they are made can be taken into account."

**Is the Council entitled to consider the combined burden of all the requests?**

26. In determining this case, the Commissioner must first consider whether it is permissible for the Council to consider the combined burden of all the requests, before then deciding if regulation 12(4)(b) is engaged.
27. As emphasised by the Commissioner's guidance, whether the Council is entitled to consider the combined burden of requests will depend on the context of the case.
28. Having reviewed the wording of the six requests, the Commissioner acknowledges that all of the requests relate to Treborth Hall/Ysgol Coed Menai/Ysgol Treborth.
29. Whilst the Commissioner has acknowledged that all of the requests related to Treborth Hall/Ysgol Coed Menai/Ysgol Treborth, the Commissioner is not satisfied the requests are similar enough for the Council to consider the combined burden of responding to all of these requests as one. Furthermore, the requests were made over a fairly long

period of time and six requests over a period of many months does not appear to be unduly burdensome.

30. The Commissioner has also concluded this because the Council's response to some of the initial requests were inadequate. These inadequate responses cited incorrect legislation and failed to provide information which was held.
31. It is the Commissioner's view that due to these inadequate responses, the complainant and an alleged third party resorted to making further requests in an attempt to receive the requested information or be provided with an adequate response to their requests.
32. For the above reason, the Commissioner does not deem it reasonable for the Council to consider the combined burden of complying with all of the requests. Aggregation of requests on the grounds of cost is not permitted under regulation 12(4)(b) of the EIR and the Council has not made compelling arguments to justify combining the burden of five further requests to deny the original request.
33. As the Commissioner is not satisfied that the combined burden of the requests can be considered together, he does not consider regulation 12(4)(b) to apply to the request of 22 February 2024. On its own it is not manifestly unreasonable, based on the Council's submissions. He therefore does not need to consider the public interest test.
34. The Council is now required to issue a fresh response to the request dated 22 February 2024, which does not rely on regulation 12(4)(b).

## **Other matters**

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35. The Commissioner would like to take this opportunity to remind the Council that when responding to requests for information, it should ensure it has conducted adequate searches for the requested information and the correct exceptions are cited in any refusal notices.
36. The Commissioner has ensured that his website has an array of guidance and training to support all public authorities when responding to requests for information. These resources should be used to ensure that responses are to the level which the Commissioner expects.
37. The Council should also ensure that when responding to requests for information, it is responding to the individual making the request directly. It is not sufficient to issue a response to a third party that is also intended for a different individual making a different request, regardless of whether it believes the two parties are working together.

## Annex

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38. On 14 February 2024, the complainant wrote to the Council and made the following request:

"A copy of all minutes from Pentir Community Council that contain any mention [of] Treborth Hall/Ysgol Coed Menai/Ysgol Treborth up to 2012"

39. On 14 February 2024, the complainant wrote to the Council and made the following request:

"I would like the supporting letter of [name and address redacted] that was submitted by [name redacted] as part of the Pentir Community Council application for a footpath through Treborth Hall."

40. On 4 March 2024, the Council responded to request to the second request from the complainant dated 14 February 2024, advising that the requested information did not exist.

41. On 3 July 2024, the complainant wrote to the Council and made a further request in the following terms:

"A copy of all minutes from Pentir Community Council that contain any mention of Treborth Hall/Ysgol Coed Menai/Ysgol Treborth and both access roads leading to this property from the Menai Bridge and Treborth Road (A487) between 2005-2012.

This request for information includes but is not limited to signs, gates, notices and footpaths."

42. On 3 July 2024, the Council advised it also received two requests from a further individual which it believed was working in conjunction with the complainant in this matter. These requests sought the following:

"A copy of all minutes from Pentir Community Council that contain any mention of Treborth Hall/Ysgol Coed Menai/Ysgol Treborth and both access roads leading to this property from the Menai Bridge and Treborth Road (A487) between 1998-2005.

This request for information includes but is not limited to signs, gates, notices and footpaths."

"All correspondences held by Pentir Community Council from members of the public relating to an alleged footpath running through Treborth Hall ([formerly] known as Ysgol Treborth/Ysgol Coed Menai) between 1998-Present.

...I respectfully request a copy of all:

- Records of any telephone conversations held
- Letters
- Emails (including emails held in personal email accounts)

All documentation submitted as part of Pentir Community Council's DMMO application is not to be included in this request. However, correspondence in relation to the DMMO application (including complaints from members of the public or letters of support from Pentir Community Council) that was not forwarded to Gwynedd Council is to be included within this request."

43. The Council sent a response to the third party on 29 July 2024. This response explained that the request dated 3 July 2024 from the complainant and the two requests received by a third party were now being aggregated. The Commissioner saw no evidence that this response was sent to the complainant directly.



44. Right of appeal
45. 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)

46. 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.
47. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

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