

ENGLAND AND WALES / JUDGMENT

Christopher Owen v Information Commissioner

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NCN: [2025] UKFTT 01344 (GRC) First-tier Tribunal (General Regulatory Chamber) Information Rights Case Reference: FT/EA/2025/0126 Decided without a hearing Decision given on: 17 November 2025 Before JUDGE HARRIS MEMBER SCOTT MEMBER SIVERS Between CHRISTOPHER OWEN and INFORMATION COMMISSIONER Appellant Respondent Decision: The appeal is Allowed. Substituted Decision Notice: IC-330458-L9L1 Organisation: Doncaster Metropolitan Borough Council Complainant: Christopher Owen

1. For the reasons set out below the public authority is not entitled to rely on section 14 of the Freedom of Information Act 2000 (“FOIA”) to refuse the complainant’s requests and, where the requests seek environmental information, the public authority is not entitled to rely upon regulation 12(4)(b) (manifestly unreasonable requests) of the Environmental Regulations 2004 (“EIR”).
2. The public authority must respond to the request for information within 35 days of the promulgation of this decision stating whether it holds the requested information and must either supply the information sought or claim any relevant exemptions or exceptions, including the grounds it relies on other than section 14(1) and, in so far as the information is environmental information, the grounds it relies on other than Regulation 12(4)(b).
Directions © CROWN COPYRIGHT 2025 The Information Commissioner is directed to send a copy of this decision to Doncaster Metropolitan Borough Council within 14 days of its promulgation

REASONS

1. This appeal concerns a Decision Notice of the Information Commissioner (“the IC”) dated 27 February 2025, reference IC-330458-L9L1 (the “Decision Notice”). The Decision Notice was in connection with a request for information made by the Appellant, Mr Christopher Owen, to Doncaster Metropolitan Borough Council (“the Council”) concerning a meeting of its Planning Committee about a development at Rose Hill Rise in Doncaster.
2. Mr Owen wrote to the Council on 23 April 2024 to request the following information: “Request 1 With regard to the Planning Committee Meeting on 14 November 2023, who within CDC decided that a private meeting was necessary and asked for it to be arranged? Please provide any emails or other documents relating to this decision, the matters to be

discussed and who should attend. Request 2 In response to the previous FOI/EIR request, it was stated that no minutes of the private meeting were taken and there are no supporting notices, documents or other papers referred to or viewed by any attendees at the meeting. In the apparent absence of formal minutes, notes or documentation of the meeting, please can you state:

- a) who chaired the meeting;
 - b) which officers spoke or provided information at the meeting;
 - c) what was discussed at the meeting; and
 - d) what advice, guidance or instructions Members were given during the meeting. Request 3 You state that [name redacted] was in attendance at the private meeting. Please can you explain:
 - a) why [name redacted] was in attendance, given that it does not appear he was in attendance during the public part of the Planning Committee Meeting; and
 - b) What role [name redacted] played in the private meeting. “
3. The Council responded on 7 May 2024. It stated that some of the information was already publicly available under section 21 of the Freedom of Information Act 2000 (“FOIA”), and that the remainder was not held. Following an internal review the Council wrote to the Mr Owen again on 1 August 2024. It revised its position and stated that it refused to comply with the request under section 14(1) of FOIA.
 4. Mr Owen contacted the IC on 6 September 2024 to complain about the way his request for information had been handled.
 5. On 27 February 2025, the IC issued the Decision Notice. In this he decided that Mr Owen’s request was vexatious and therefore the Council was entitled to rely upon section 14(1) of FOIA to refuse it, and that where the requests seek environmental information, the Council is entitled to rely upon regulation 12(4)(b) (manifestly unreasonable requests) of the Environmental Information Regulations 2004 (“EIR”). Abbreviations used in this decision
 6. “the Council” means Doncaster Metropolitan Borough Council “the Decision Notice” means the the IC’s decision notice dated 27 February 2025, reference IC-330458-L9L1 “EIR” means the Environmental Information Regulations 2004 “FOIA” means the Freedom of Information Act 2000. All references to sections are references to sections of this Act unless otherwise specified “IC” means the Information Commissioner “UT” means the Upper Tribunal, Administrative Appeals Chamber Procedural matters
 7. The appeal was determined without a hearing. All parties consented to this and the Tribunal considered that it was appropriate and fair to proceed in this way. The Appeal

8. Mr Owen appealed the Decision Notice to the Tribunal on 25 March 2025. He summarised his reasons for the appeal as follows:
 - a. “The reasons given by the Council for refusing my request were firstly that the information was not held and then on appeal because “the number of questions and departments involved in your request would cause the council undue stress and be a burden on our time and resources”. The Commissioner did not consider this latter rationale as the basis for the decision to reject my complaint but instead based the decision on new information and arguments made by the Council which I was not aware of or given the opportunity to comment or present evidence on. The process by which the Commissioner reached the decision was therefore one-sided and unfair to me as complainant. It also meant the Commissioner did not reach a decision based on evidence and arguments from both parties.”
 - b. “In the alternative, if the Tribunal considers that the Commissioner was correct to base the decision on the new information and arguments made by the Council...
 - i. The decision incorrectly takes into account information and events after the cut-off date (7 May 2024) specified in ICO guidance... ii. The Commissioner says the request was made in the context of “long running correspondence (including eight information requests between 2023 and present) by the complainant in respect of the matter”. The Commissioner appears to have only considered the number of communications and FOIA/EIR requests and has not taken into account the timing, nature, reason for and context of my communications with the Council. The context shows that the contacts were reasonable and justified and should not be used as a reason for considering my request to be vexatious... iii. The Council has not sought to demonstrate transparency about this matter... iv. This matter has not been “extensively considered by the proper authorities. The Planning Inspectorate did not consider the matter of the private meeting. There has been no decision in a judicial review that the Council acted lawfully in the planning process. The Commissioner was therefore incorrect to give weight to these factors in the decision...
 - v. Complying with the request will not cause a disproportionate or unjustified level of disruption, irritation or distress... vi. This information request does not relate to a matter which is “closed” and the FOIA/EIR are not therefore being used to force “continued engagement by the Council on a closed matter”. I am not seeking to try to overturn a planning decision. Instead I am trying to obtain information regarding the way an aspect of the planning process was conducted and to provide transparency over the decision made to approve the Rose Hill application. My request has value and a serious purpose as there remains a strong public interest in obtaining transparency regarding the private meeting so the public can understand the Council’s decision making process and see that the planning committee acted openly and fairly in making its decision (especially in this case where the Council had a financial interest in the application being approved). Disclosure of the information requested would therefore deliver a clear public benefit.”

9. Mr Owen expands further on these points in detail in his grounds of appeal. He concludes that there is an equal or greater public interest in the request being complied with and that the IC was incorrect to consider that his request was vexatious. IC's Response to the Appeal
10. The IC filed a response to the appeal dated 24 April 2025. He maintained his finding that the request was vexatious and that the Council was entitled to rely on Section 14 of FOIA and Regulation 12(4)(b) of the EIR to refuse to respond.
11. In relation to the FOIA aspect of the appeal, the IC submitted that in all the circumstances of the case the request was vexatious following the case of *Dransfield v Information Commissioner & Devon County Council* [2015] EWCA Civ 454.
12. In relation to the EIR aspect of the appeal, the IC submitted that in all the circumstances of the case the request was manifestly unreasonable following *Dransfield and Craven v Information Commissioner & DECC*. In *Craven*, the UT held that for all intents and purposes the term "manifestly unreasonable" under Regulation 12(4)(b) has the same meaning as "vexatious" under section 14(1) FOIA.
13. Having considered the public interest in disclosure of the requested information at paragraph 36 of the Decision Notice, the IC concluded that public interest in the maintenance of the exception provided by Regulation 12(4)(b) outweighs the public interest in disclosure of the withheld information. Mr Owen's reply to the IC's Response
14. Mr Owen submitted a reply to the IC's Response dated 8 May 2025. In this he discussed the agreed facts and suggested additional ones. He also discussed what he considered the principal issues in the appeal to be, restating several of the points made in his grounds of appeal.

Legal framework

FOIA

15. Section 14(1) of FOIA provides: "Section 1(1) does not oblige a public authority to comply with a request for information if the request is vexatious."
16. There is no further guidance on the meaning of "vexatious" in the legislation. The leading guidance is contained in the Upper Tribunal ("UT") decision in *Information Commissioner v Dransfield* [2012] UKUT 440 (AAC), as upheld and clarified in the Court of Appeal ("CA") in *Dransfield v Information Commissioner and another & Craven v Information Commissioner and another* [2015] EWCA Civ 454 (CA).
17. As noted by Arden LJ in her judgment in the CA in *Dransfield*, the hurdle of showing a request is vexatious is a high one: "...the starting point is that vexatiousness primarily involves making a request which has no reasonable foundation, that is, no reasonable foundation for thinking that the information sought would be of value to the requester, or to the public or any section of the public. Parliament has chosen a strong word which therefore

means that the hurdle of satisfying it is a high one, and that is consistent with the constitutional nature of the right. The decision maker should consider all the relevant circumstances in order to reach a balanced conclusion as to whether a request is vexatious.” (para 68).

18. Judge Wikeley’s decision in the UT decision on Dransfield sets out more detailed guidance that was not challenged in the CA. The ultimate question is, “is the request vexatious in the sense of being a manifestly unjustified, inappropriate or improper use of FOIA?” (para 43). It is important to adopt a “holistic and broad” approach, emphasising “manifest unreasonableness, irresponsibility and, especially where there is a previous course of dealings, the lack of proportionality that typically characterise vexatious requests.” (para 45). Arden LJ in the CA also emphasised that a “rounded approach” is required (para 69), and all evidence which may shed light on whether a request is vexatious should be considered.
19. The UT set out four non-exhaustive broad issues which can be helpful in assessing whether a request is vexatious:
 - a. The burden imposed on the public authority by the request. This may be inextricably linked with the previous course of dealings between the parties. “...the context and history of the previous request, in terms of the previous course of dealings between the individual requester and the public authority in question, must be considered in assessing whether it is properly to be characterised as vexatious. In particular, the number, breadth, pattern and duration of previous requests may be a telling factor.” (para 29).
 - b. The motive of the requester. Although FOIA is motive-blind, “what may seem like an entirely reasonable and benign request may be found to be vexatious in the wider context of the course of dealings between the individual and the relevant public authority.” (para 34).
 - c. The value or serious purpose. Lack of objective value cannot provide a basis for refusal on its own, but is part of the balancing exercise – “does the request have a value or serious purpose in terms of the objective public interest in the information sought?” (para 38).
 - d. Any harassment of, or distress caused to, the public authority’s staff. This is not necessary in order for a request to be vexatious, but “vexatiousness may be evidenced by obsessive conduct that harasses or distresses staff, uses intemperate language, makes wide-ranging and unsubstantiated allegations of criminal behaviour or is in any other respects extremely offensive.” (para 39).
20. Overall, the purpose of section 14 is to “protect the resources (in the broadest sense of that word) of the public authority from being squandered on disproportionate use of FOIA” (UT para 10), subject always to the high standard of vexatiousness being met. EIR
21. The IC decided that part of the request was for environmental information and should, therefore, have been dealt with pursuant to EIR. We agree.

22. EIR defines environmental information thus: “environmental information” has the same meaning as in Article 2(1) of the Directive, namely any information in written, visual, aural, electronic or any other material form on— a. b. 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; 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) and (b) 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);”
23. Regulation 12 EIR provides relevantly as follows: “Exceptions to the duty to disclose environmental information 12.— (1) Subject to paragraphs (2), (3) and (9), a public authority may refuse to disclose environmental information requested if—
 - (a) an exception to disclosure applies under paragraphs (4) or (5)...
 - (4) 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”
24. In Dransfield, the Court of Appeal held that the tests as to whether a request is “vexatious” under s14 FOIA and “manifestly unreasonable” under Regulation 12(4)(b) EIR have, to all intents and purposes, the same meaning. The Role of the Tribunal
25. The Tribunal’s remit is governed by section 58 FOIA. This requires the Tribunal to consider whether the decision made by the IC is in accordance with the law or, where the IC’s decision involved exercising discretion, he should have exercised it differently. If we are satisfied that the IC’s decision notice is in error of law or involves an inappropriate exercise of discretion then we will allow the appeal and may substitute a decision notice for that of the IC. The Tribunal may receive evidence that was not before the IC and may make different findings of fact from the IC. The evidence

26. The Tribunal had before it an OPEN bundle of 322 pages of documents. The issues
27. The key issue which the Tribunal needs to decide is whether the Council was entitled to rely on section 14(1) of FOIA and/or Regulation 12(4)(b) of EIR to refuse to respond to the request. Discussion and conclusions
28. As a preliminary point, Mr Owen argues in his Grounds of Appeal that the IC based its decision on new information and arguments made by the Council, rather than the reasons set out in the Council's revised response to the request dated 1 August 2025. He argues that he was not aware of or given the opportunity to comment on the Council's case by the IC which renders the IC's decision unfair. Mr Owen expanded on this further in his reply.
29. Mr Owen also argues that the IC's decision incorrectly takes into account information and events after the cut-off date of 7 May 2024 when it first responded to his requests. In relation to this point, the appeal before the Tribunal is in relation to the revised response sent by the Council on 1 August 2024 as this is the decision which the IC considered and in respect of which a right of appeal to this Tribunal lies, not to the earlier response dated 7 May 2024, which was in effect superseded by the response on 1 August 2025.
30. The Tribunal is not conducting a judicial review of the decision with a view to determining whether it was unfair or irrational; that would be a matter for the Administrative Court. Rather, the Tribunal's role is to determine whether the Decision Notice was in accordance with the law. We are concerned with what the IC decided, not how it was decided. In any event, we are satisfied that Mr Owen did have an opportunity to submit information and views to the IC ahead of the Decision Notice, of which he availed himself. He also has had a fair opportunity to present his case in the course of this appeal to this Tribunal, which, as noted above, may consider information not available to the IC when making its decision. The IC's guidance on which Mr Owen seeks to rely appears to date from 2015, so is significantly out of date and does not reflect the more recent case law. The IC's guidance is persuasive rather than binding on the Tribunal in any event.
31. We therefore consider that it is appropriate to proceed to consider the appeal taking into account all the evidence which was presented to the Tribunal. The Tribunal is concerned with the decision of the IC, not that of the Council, and needs to review all the information which the IC took into account when making its decision.
32. In considering whether the request was vexatious, our starting point is the four parts of the test set out in Dransfield and outlined above. The burden imposed on the public authority by the request.
33. The reason given by the Council in its email dated 1 August 2024 for refusing the request was "the number of questions and departments involved in your request would cause the council undue stress and be a burden on our time and resources".

34. The Decision Notice at paragraph 26 summarises the Council's submission as to the volume of correspondence it received from Mr Owen during a two-year period in connection with the subject matter of the request as follows (some of these numbers are disputed by Mr Owen): "During a 2 year period, the Council has received approximately 122 electronic contacts from the complainant on the matter, which has resulted in significant work for officers, including 208 emails sent between officers to determine responses, and approximately 81 email replies from the Council to the complainant. This includes 5 information requests made in the financial year 2023-2024, and 3 information requests made in the financial year 2024-2025. This request (Council reference 68557) is a continuation of an earlier request (Council reference 68114) relating to the same meeting, to which the Council disclosed some information, and confirmed that some was not held. The majority of the information sought by this request is not held, with the exception of some information which is already publicly available. "
35. In his Grounds of Appeal, Mr Owen at section 1 outlines the history of his requests to the Council for the subject matter of the request, including an earlier request for information made on 6 January 2024. He provides detailed analysis, including tables, which demonstrate that he made 5 information requests and that the numbers of communication set out by the Council include both their responses to him and internal communications to enable the Council to respond.
36. Taking into account the comments of the UT in Dransfield, we were not satisfied that this part of the test was met. The Council has not provided adequate evidence to demonstrate that the responses would cause "undue stress and be a burden on our time and resources". Indeed, it notes that its planning officers are accustomed to receiving extensive correspondence from interested parties in relation to planning decisions. We were more persuaded by Mr Owen's submissions, because of the detail in which he analysed the communications concerned and, in particular, because a substantial number of the communications would have been exchanged during the planning application phases, when the Council could expect to be responding to queries and issues raised in representations in any event. The motive of the requester.
37. In paragraph 36 of the Decision Notice, the IC states that "the context that this request has been made in strongly suggests to the Commissioner that it has been made to force continued engagement by the Council on a closed matter which has already been subject to significant scrutiny and transparency."
38. In his Grounds of Appeal, Mr Owen stated that "my motive in making the request is to obtain openness and transparency about a private meeting that was the reason why the decision to refuse a planning application in which the local authority making the decision had a significant financial interest".

39. We accept that Mr Owen's motive was to seek transparency about an issue on which he felt strongly. However, we consider it an important factor that the Council had a significant financial interest in the transaction and that it stood to benefit financially from the planning application proceeding. In our view, this supports Mr Owen's position that his motive was ensuring transparency rather than trying to force the issue to remain open. We were therefore not satisfied that this part of the test was met. The value or serious purpose.
40. Paragraph 6.6 of the Grounds of Appeal states "I have a genuine and legitimate reason for seeking access to the requested information which is to obtain the openness and transparency over a planning committee decision that public standards require. If the council can hold private meeting to determine planning applications, it is failing in this respect and the FOIA/EIR is potentially the only way in which the public can hold the Council to account. My request therefore has value and a serious purpose."
41. Paragraph 26 of the Decision Notice summarises the Council's position as follows: "All legal avenues to change the planning decision have now been exhausted and responding to this request would not serve any purpose or support the public interest. There is no inherent purpose to the request as the planning decision cannot be changed; the development is now under way and the continued correspondence is depleting the Council's resources."
42. The IC recognised at paragraph 30 of the Decision Notice that "the planning permission for 121 new homes at Rose Hill Rise) is a contentious one within the local community, and the development will have a significant impact on the local area. In such a context, there is a strong public interest that there is appropriate transparency by the Council, so that the public can understand its decision making process".
43. However, he also goes on to note "There is no evidence available to the Commissioner that suggests that the Council has not already sought to demonstrate transparency about this matter, whether through the planning process or its responses to previous information requests". He also notes that while correspondence between Mr Owen and the Council was ongoing "the planning application had been allowed by both the Council and Planning Inspectorate, and has been the subject of a Judicial Review, which found the Council had acted lawfully in the planning process".
44. We accept that there had been some attempts by the Council to demonstrate transparency. However, in our view the public interest in the planning decision is significantly increased because of the fact that the Council stood to benefit financially from the planning application proceeding as a result of its interest in the land. In our view transparency about this aspect is a clear benefit to the public which merits the use of public resources and we disagreed with the IC that the public value of the request was limited simply because the planning application was granted. On balance of probabilities, we considered therefore that this part of the test was not met. Any harassment of, or distress caused to, the public authority's staff.

45. At paragraph 26 of the Decision Notice, the IC summarises the impact on the Council's staff, as reported by the council as "whilst planning officers are used to dealing with objections and opposition to planning consents, the complainant's correspondence has caused significant volumes of work and stress to planning officers".
46. At paragraph 6.7 of the Grounds of Appeal Mr Owen says "My communications with the Council have not been intended to cause harassment or distress or are likely to have caused such an impact. My communications with the council have been polite and respectful and dealt with specific issues or queries. Justified persistence in attempting to obtain information about a meeting which the Council has been reluctant to provide information on and which it has not been transparent about, and which determined the outcome of a planning application in which the Council had a financial interest should not reasonably be considered harassment.
47. The UT decision in Dransfield makes it clear that this element is not necessary in order for a request to be vexatious. On balance of probabilities, we consider there is insufficient evidence to demonstrate that there has been harassment of or distress to the Council's staff.
48. In summary, we consider that none of the limbs in the test in Dransfield are met, and that accordingly the Council was not entitled to rely the request being vexatious and/or manifestly unreasonable to refuse to comply with it. This means that the Council is not able to rely on section 14(1) of FOIA for those parts of the request which fall under FOIA to refuse the request on the basis it was vexatious or on Regulation 12(4)(b) to refuse those parts of the request which fall under EIR as being manifestly unreasonable. Accordingly, we consider that the IC's Decision Notice was not made in accordance with the law and allow the appeal.
- Signed: Judge Harris Date: 11 November 2025 11

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