

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

Decision notice

Date: 8 March 2016

Public Authority: The Land Registry
Address: Trafalgar House
1 Bedford Park
Croydon
CR0 2AQ

Decision (including any steps ordered)

1. The complainant submitted a number of requests to the Land Registry seeking information concerning the registration of a particular parcel of land. The complainant complained to the Commissioner about the Land Registry's failure to provide him with the information sought by two of these requests dated 5 June and 13 September 2015. During the course of the Commissioner's investigation the Land Registry sought to refuse these requests on the basis of section 14(1) (vexatious) of FOIA, or in the alternative, regulation 12(4)(b) (manifestly unreasonable) of the EIR. The Commissioner has concluded that the requests should be considered under the EIR but that the Land Registry is entitled to refuse to comply with the requests on the basis of regulation 12(4)(b) because they are manifestly unreasonable.

Request and response

2. The complainant has been in correspondence with the Land Registry for a number of years concerning matters associated with the registration of his title.
3. On 5 June 2015, in response to an earlier exchange of correspondence, the complainant submitted the following request to the Land Registry:

'Thank you for your letter dated 20th May 2015. Could you tell me what deeds you have used to register the land known as Field End and shown edged blue on your survey dated 5th March 1991.'

4. And then on 12 June 2015 he wrote to the Land Registry in the following terms:

'Thank you for your letter dated 10th June 2015. You have not at any time supplied me with any deeds that show the land edged blue on your survey that show the land as anything else other than field end. My deeds state that land was mortgaged to me on the 3rd November 1971. Bradford & Bingley building society what are you going to do about it.'

5. The Land Registry responded to these two pieces of correspondence on 26 June 2015. It explained that if the complainant wanted to know the deeds used to register the land in titles HS222042 and HS195602 he could apply using form OC2 for a copy of the Document List that accompanied each application for first registration. The Land Registry explained that there was a fee for £7 for each document. With regard to the application of FOIA it explained that such information would be considered to be exempt from disclosure on the basis of section 21 of the legislation which provides for an exemption to disclosure for information which is available by other means. Furthermore, the Land Registry also explained that it considered this an attempt to reopen correspondence on matters that had been dealt with in the past and that it was not willing to repeat that exercise when the complainant had already been provided with its full and final response (which it suggested had been communicated to the complainant on 8 July 1992). The response also noted that under section 14 of FOIA, public authorities do not have to comply with vexatious or repeated requests and that the Land Registry may take into account the context and history of the request where relevant.

6. The complainant responded to the Land Registry on 1 July 2015 in the following terms:

'Thank you for your letter dated 26th June 2015. I already have a list of documents. Part of title number HS195602 was registered under title HS122872 The list of documents starts with a deed of release with the agricultural mortgage corporation when did [name redacted] acquire any of the land included in the deed of rectification. Can you also confirm that the western boundary of the deed of rectification is in the same position as the western boundary of the deed of gift dated 3rd October [sic] 1966 between [names redacted]. I have paid a mortgage on all the land edged blue on your survey the

deeds state that land was mortgaged [sic] to me on 3rd November 1971 what are you going to do about it.'

7. It would appear that the complainant did not receive a response to this email and therefore contacted the Land Registry again on 26 July 2015 in the following terms:

'I am not satisfied with the response I have received from the land registry please conduct an internal review [sic] and supply me with the information I have requested.'

8. The Land Registry responded on 27 August 2015 and provided him with the findings of the internal review. In summary the review found that:

- The complainant was not raising new issues regarding the registration of his title. Moreover, the Land Registry was no longer corresponding with him with regard to his complaint that land had been erroneously omitted from his title.
- The complainant's correspondence did not appear to contain any valid FOI requests.
- If he required information regarding his register of title documents referred to on the register, there is a statutory process to access such information (as described in the Land Registry's response of 26 June 2015). This information was therefore considered to be exempt from disclosure under section 21 of FOIA.
- There was no further information which the Land Registry could provide him with regarding this matter, beyond the copies of the register/title plan/documents referred to on the register and available by completing the prescribed form and completing the prescribed fee.

9. Following receipt of the internal review the complainant emailed the following response to the Land Registry on 27 August 2015:

'Thank you for your email I would not be still writing to the land registry if I was happy with my registration and the registration of title No HS195602 Yet again the land registry have failed to answer the questions I have asked You appear to be using the word disengaged could you explain what you mean I have now produced to you the evidence that I was paying a mortgage on the land shown edged blue on your survey the land is restricted to be used residentially with an agricultural restriction for which I have a certificate of lawfulness only to be used with my property. Case reference (ico) FS50561342 you state that you got the name of the property from your surveyor the planning register and the ordnance survey show that there is no

property Known as the bungalow on there records on that site. Now please address the issues.'

10. And contacted it again on 1 September 2015 with the following email:

'Can you confirm that the information I have requested is available on your website.'

11. The complainant also sent the following email on the same day:

'My investigations have revealed that [name redacted] has not sold .09 acres within the site could you show me were this land is please.

[name redacted] originally purchased 16.482 acres in fields o.s 118 and part 117 volume 1766 page 291 No 239 he sold me one acre 20th January 1983 leaving 15.482 acres in his ownership.

the deed of release presented to the land registry dated 25th October 1986 shows the area of land as being 15.66 he only owned 15.48 how can he be have a mortgage on 15 .66 acres

The deed of release also contains part of the deed of gift dated 3rd October when was any part of the deed of gift conveyed to [name redacted].

[name redacted] went on to sell 2.6 acres to [name redacted] and 12.79 acres to [name redacted]. A prompt reply would be appreciated.

12. And the following email on 12 September 2015:

'I am Still waiting for a reply to my email dated 1st September under freedom of information you are required to supply information within twenty one working days or state which section of freedom of information you are using [sic] to withhold the information I have requested.'

13. The complainant then sent the following email to the Land Registry on 13 September 2015:

'Please find attached copy of deed of gift I have arrowed and text land included in Title HS195602 What deeds did you use to register this land'

14. The Commissioner understands that the Land Registry did not respond to the complainant's emails of 27 August, 1 September and 12 September 2015.

15. However, on 10 September 2015 the Land Registry responded to an OC2 application the complainant had made in relation to the title HS195602. It explained that his application had been rejected as he had not clearly identified the document he was applying for. It noted that in order to apply for a document an applicant had to clearly identify the document, not provide it with a statement open to interpretation. In any event the Land Registry explained that having consulted its files, it did not appear to hold a copy of the Deed of Gift dated 3 October 1966 which the complainant's application referred to or any earlier conveyances that the Deed of Gift might refer to.

Scope of the case

16. The complainant contacted the Commissioner on 1 September 2015 in order to complain about the Land Registry's handling of his recent requests. In doing so he explained that he was of the view that the Land Registry had not provided him with the information requested and he needed this in order to clarify ownership of the land in question.
17. The Commissioner sought to clarify the exact nature of the complainant's concerns before contacting the Land Registry about this case. It was subsequently agreed to that the information which the complainant believed had not been provided to him fell within the scope of the requests of 5 June and 13 September 2015. The Commissioner therefore confirmed that he would focus on establishing whether the Land Registry held information falling within the scope of these requests and if so whether it was under an obligation under FOIA (or the EIR) to provide it to the complainant.
18. During the course of the Commissioner's investigation the Land Registry confirmed that it wished to formally rely on section 14(1) of FOIA to refuse the complainant's requests. The Land Registry explained that if the Commissioner determined that the requested information constituted 'environmental information' and thus fell to be considered under the EIR, then it would seek to rely on regulation 12(4)(b), the manifestly unreasonable exception, in order to refuse to comply with the requests.

Reasons for decision

Which access regime does the requested information fall under?

19. Regulation 2(1) of the EIR set out a number of different definitions of environmental information. The key definitions relevant to this case are those contained at regulations 2(1)(a) and (c):

“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) 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;

(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;’

20. The Land Registry argued that the information sought by the complainant did not fall within the definition of environmental information as it related to documentary title and registration of title issues rather than environmental issues described at regulations 2(1)(a) to (f) which refer to the physical attributes of land. In particular the Land Registry suggested that regulation 2(1)(c) was not relevant as it concerned measures which would likely affect the physical attributes of land not its title.
21. The Commissioner respectfully disagrees with the Land Registry. In his opinion the requested information, essentially information relating to registration of land, can be correctly seen as information on a measure – namely the process of registering of land – that is likely to affect the land itself. How a piece of land is registered, and to whom, is in the Commissioner’s opinion likely to affect the use of that land and thus have a direct effect on it.

Manifestly unreasonable

22. Regulation 12(4)(b) of the EIR allows a public authority to refuse to comply with a request if it is deemed to be manifestly unreasonable. The factors that the Commissioner takes into account when determining

whether a request is manifestly unreasonable are to a large degree the same factors which he would take into account in determining whether a request is vexatious under FOIA. However, regulation 12(4)(b) is a qualified exception and therefore subject to the public interest test.

23. The Commissioner has issued guidance on determining whether a request is vexatious.¹ This guidance explains that the purpose of section 14(1) of FOIA, and for the purposes of this case, regulation 12(4)(b), is to protect public authorities by allowing them to refuse any requests which have the potential to cause a **disproportionate** or **unjustified** level of disruption, irritation or distress.
24. This will usually involve weighing the evidence about the impact on the authority and balancing this against the purpose and value of the request. This should be judged as objectively as possible; in other words, would a reasonable person think that the purpose and value are enough to justify the impact on the public authority. Where relevant, this will involve the need to take into account wider factors such as the background and history of the request.

The Land Registry's position

25. The Land Registry explained that there was a significant history to the complainant's interactions with the Land Registry in which the complainant claims to be the rightful owner of part of the land in title HS195602 which adjoins his property. The Land Registry confirmed to the Commissioner that it had explained on many occasions, and over many years, to the complainant how his title had been registered and that he had no claim to any part of the land registered under HS195602.
26. The Land Registry provided the Commissioner with copies of all letters exchanged between the complainant and the Land Registry about this matter between 15 June 1992 and 12 November 1997. In its letter of 12 November 1997, the Land Registry informed the complainant that it considered this matter to be concluded and that there was nothing to be gained by continuing to correspond about it. In this letter the Land Registry explained that it would not reply to any further correspondence the complainant sent on this matter or discuss the matter by telephone. It advised the complainant (as it noted it had on a number of occasions)

¹ A copy of the Commissioner's latest guidance is available here:
http://www.ico.org.uk/for_organisations/guidance_index/~/_media/documents/library/Freedom_of_Information/Detailed_specialist_guides/dealing-with-vexatious-requests.ashx

to bring court proceedings against his neighbours if he wished to assert his claim.

27. The Land Registry also provided the Commissioner with letters it sent to the complainant on 10 December 2002 and 12 December 2005. Both letters were in response to correspondence sent by, and telephone calls made by, the complainant in which he continued to raise the issue of the registration of his property and the land in title HS195602. In both letters the Land Registry again explained to the complainant that it would not be drawn into further correspondence about an issue which had been covered in extensive correspondence over many years in the 1990s. In both letters the Land Registry also suggested that the complainant considered referring the matter to the Independent Complaints Reviewer if he was dissatisfied with how his correspondence had been handled. The Land Registry also provided the Commissioner with a summary of its correspondence it had with the complainant about this issue in October 2009 and during 2014.
28. In the Land Registry's view the complainant's latest requests, including those of 5 June and 13 September 2015, were an attempt to reopen an issue which had been comprehensively addressed by it. The Land Registry emphasised that the complainant had been informed on numerous occasions that it would no longer correspond with him about these matters.
29. The Land Registry suggested that at the core of this matter was the fact that the complainant is asking for something the Land Registry could not provide him with, namely alteration to his registered title. Furthermore, because in its view the title issue had already been conclusively resolved, the Land Registry argued the complainant's repeated requests for similar information were not sufficient to justify the impact on it. Moreover, the Land Registry suggested that in this particular case it was not possible to provide the complainant with any more recorded information than had already been supplied to him.

The complainant's position

30. The complainant confirmed to the Commissioner that the purpose of his requests was to access the specific deeds used by the Land Registry to register a particular parcel of land. He explained to the Commissioner that despite the information previously provided to him by the Land Registry, in response to his previous requests and correspondence, he did not believe that such information adequately explained how this particular parcel of land had been registered. The complainant argued that the Land Registry should hold and be able to produce this information. The complainant emphasised his concerns that there were irregularities with the deeds. (The complainant also drew the

Commissioner's attention to what he considered to be a number of planning application irregularities associated with the neighbouring property.)

31. The complainant therefore argued that there was a clear need for the Land Registry to provide him with the information that he had requested in order to clarify the ownership matters associated with respective titles. He emphasised the importance of such information being recorded accurately and that if incorrect information had been used to register the parcel of land in question then there was a clear need to expose and correct this.

The Commissioner's position

32. The Commissioner respects the fact that the complainant is clearly of the view that there are inaccuracies with his title deed. Furthermore, the Commissioner accepts that in light of such a view, the complainant understandably wishes to have such alleged inaccuracies corrected and that in his view part of such a process is being provided with the information he has requested, information which despite the Land Registry's suggestions, he does not feel he was been provided with. The Commissioner notes that the complainant clearly feels sufficiently strongly about the matter to continue to pursue it, via correspondence with the Land Registry, for so many years. This is to say, from the complainant's perspective, the Commissioner does not dispute that the requests clearly have a serious purpose and value.
33. However, in the Commissioner's opinion it is vital to see these latest requests in the background of the complainant's lengthy correspondence with the Land Registry about this matter. Over a number of years, dating back as far as 1992, the Land Registry has sought to address the complainant's concerns around the alleged inaccurate registration of land in his title. The Land Registry has explained to the complainant why it does not believe that any such inaccuracies exist and consistently explained to him his alternative courses of action should he wish to pursue such a claim. The Commissioner notes that the Land Registry has also explained to the complainant on number of occasions that it considers this matter to be exhausted and that further correspondence about it would not be productive.
34. In this context, the Commissioner thinks it is reasonable to conclude that from an *objective* point of view the requests do not have a serious purpose or value. This matter has already been considered at length, and in detail, by the Land Registry and it seems highly unlikely that after such time it would accept the complainant's view that such inaccuracies exist. Furthermore, with regard to the actual information that has been sought, the Land Registry has indicated it has already provided the

complainant with all of the recorded information it holds in relation to this matter and no further information can be provided. Set against this context and background, the Commissioner is satisfied that the requests clearly place a disproportionate burden on the Land Registry and can be correctly categorised as manifestly unreasonable.

Public interest test

35. Unlike section 14(1) of FOIA, there is a public interest associated with the exception under regulation 12(4)(b). In the Commissioner's view there is a significant amount of public interest in protecting the Land Registry's resources. In contrast, in the Commissioner's view there is a very limited public interest in it responding to these requests given the extent to which the Land Registry has already addressed the issues which are the focus of the complainant's requests and the alternative courses of action available to the complainant if he wishes to pursue this matter. Therefore, having taken the history and context of these requests into account, the Commissioner is firmly of the view that the public interest favours maintaining the exception.
36. The Commissioner has therefore concluded that the Land Registry is entitled to refuse to comply with the requests of 5 June and 13 September 2015 on the basis of regulation 12(4)(b) of the EIR.

Right of appeal

37. 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: 0300 1234504

Fax: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk

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

38. 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.
39. 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

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