



**FIRST-TIER TRIBUNAL
GENERAL REGULATORY CHAMBER
Information Rights**

Tribunal Reference: EA/2013/0211
Appellant: Robert Arthur Pickthall
Respondent: The Information Commissioner
Judge: NJ Warren
Member: S Cosgrave
Member: Dr M Clarke
Hearing Date: 11 February 2014
Decision Date: 7 March 2014

DECISION NOTICE

1. On 14 August 2012 Mr Pickthall made a request for information to Davenham Parish Council (Davenham) under the Freedom of Information Act (FOIA). The request, which is in eight parts is to be found at page 29 of the Tribunal bundle. Davenham refused the request on the ground that it was vexatious and confirmed that decision on review. Mr Pickthall complained unsuccessfully to the Information Commissioner (ICO) and now appeals to the Tribunal against the ICO decision notice. The appeal was heard at Chester on 11 February 2014. The ICO did not trouble to attend.
2. At the close of the hearing Mr Pickthall asked to be able to submit further documents. We allowed him to do so within seven days. We have now read them but they do not materially affect our decision, so we see no need to seek the views of the ICO.
3. Mr Pickthall explained to us that he was living in sheltered housing on Mount Pleasant Road, Davenham. Behind the development, which is in the shape of a

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horseshoe, are a playing field, a football field, and a cricket field. An unadopted road runs through the development to the playing field at the back.

4. Mr Pickthall told us that the land comprises three fields on old OS maps. Field 92 is now the playing fields and football pitch; field 93 is the cricket club; and field 100 is the site of the houses and the unadopted road.
5. Three bodies have been involved in the ownership of the land. They are Davenham, Northwich RDC, now subsumed in Cheshire West Council, and the Weaver Vale Housing Trust (WVHT).
6. Mr Pickthall's main concern, he told us, was that he had been given false documents. He was referring to a copy of a 1955 conveyance of 8.6 acres of land from Northwich RDC to Davenham. Mr Pickthall says that Davenham want him to believe that the land covered by the conveyance is fields 92 and 93, whereas he believes that the deed refers to fields 92 and 100.
7. It is certainly true that something has gone wrong with the conveyancing. There appears to be a duplication of at least part of the titles at the Land Registry which will require rectification. Solicitors have been instructed to sort that out on behalf of Davenham, Cheshire West and WVHT.
8. Any dispute about land ownership, however, is not within our jurisdiction. Our task is to decide whether the request made on 14 August 2012 is vexatious.
9. Davenham dealt with Mr Pickthall's request under FOIA. The ICO has raised the question of whether some of the requests should have been dealt with under the Environmental Information Regulations (EIR). We are not entirely clear about the ICO reasoning in this respect but it makes no difference to our deliberations. A finding that a request is "vexatious" under FOIA is equivalent to a finding that it is "manifestly unreasonable" under EIR. Nor would we conclude in the material before us that the public interest favoured meeting an unreasonable request in the circumstances. With the goodwill of all concerned, legal experts are now sorting

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out the conveyancing mistakes that were made in the past. In the rest of this decision we will refer, as Davenham did, only to FOIA.

10. Having considered all the evidence we agree with the ICO that the request dated 14 August 2012 was vexatious. It was wide ranging and asked for very old information. Many parish councils like Davenham have small resources, employing usually only a part-time clerk. They are easily overburdened. Moreover Mr Pickthall had made about twenty other individual requests in the preceding month. We accept the evidence and the material before us of stress caused to the parish clerk and one of the councillors. Two of the councillors had already taken time to meet with Mr Pickthall who said that he wanted “nothing less than the resignation of the parish clerk.”
11. At the hearing Mr Pickthall accepted that his request on 14 August 2012 was much wider than his actual concerns. He said he felt pushed into making such a wide request when he was being shut out from the information he really wanted.
12. Having considered the guidance given by the Upper Tribunal in the case of Dransfield, and, especially in light of the burden placed upon Davenham by Mr Pickthall’s repeated requests, we agree with the ICO that the request made on 14 August 2012 was such that Davenham were entitled to invoke the protection of Section 14 FOIA.

NJ Warren

Chamber President

Dated 7 March 2014

Promulgation Date 10 March 2014