

**From:** EIR Compliance

**To:**

**Subject:** 20250805 – EIR – Internal review response

**Date:** 05 August 2025 15:06:00

**Internal review response EIR (Follow on from EIR)**

Dear

We refer to your email dated 19 June 2025 in relation to our response to EIR

We have logged your internal review reference as EIR.

**Original request:**

On the 24 March 2024 you requested information for:

*"I would be grateful if you could you provide a list of Live/ Outstanding Section 104 and 185 Bond Agreements, whereby the site has not been adopted. In the interest of protecting our environment. To aid and assist, I have included a template of the type of data we require: site reference number, developer, site name, date technical approval submitted, date technical approval granted, current bond value and guarantor/surety provider""*

**Our response to EIR:**

We responded to EIR on the 17 April 2025 to advise the information you had requested had been partially refused in accordance with the Environmental Information Regulations (EIR) 2004. Under Regulation 12(5)(e) commercial and

industrial information and determined some of the information you requested was outside the scope of EIR. Within this response, we advised we had consulted with the business to understand if there was any information that we could provide in response to your request. We provided some information that we considered would help and assist you whilst maintaining the exemption.

### **Your request for an internal review:**

Your request for an internal review was received on the 19 June for:

*"I recognise your position, however, please be advised that our EIR request has been approved by other water companies across the UK who have recognised and accepted our request in accordance with EIR guidelines. Our request does abide by EIR regulations, as we are requesting details of unadopted sewer networks in your area and the associated developer of each scheme is responsible for ensuring compliance with environmental regulations."*

In reviewing your request for an internal review, we confirmed that you were outside of the legislative timeframe to request an internal review for our response, and advised on this occasion we would consider your internal review request in good faith.

### **Our response to your internal review EIR:**

We recorded your internal review as EIR.

In considering our original response, we have made the decision to uphold the exemption that we applied.

In regards to your request for site reference number, developer and site name we are writing to inform you that your request for environmental information has been partially refused in accordance with the Environmental Information

Regulations (EIR) 2004. Regulation 12(5)(e) provides that environmental information does not have to be disclosed where disclosure would adversely affect the confidentiality of commercial or industrial information where such confidentiality is provided by law to protect a legitimate economic interest. The restriction in relation to the disclosure of information obtained by virtue of the provisions of the Water Industry Act 1991 ("WIA") is set out in S206 WIA. The restriction contained in S206 WIA provides, insofar as is material that "no information with respect of any particular business which (a) has been obtained by virtue of any of the provisions of this Act; and (b) relates to the affairs of any ... particular business, shall ... so long as that business continues to be carried on, be disclosed without the consent of ... the person for the time being carrying on that business.

**The information is commercial or industrial in nature:**

For it to be commercial in nature, it needs to relate to a commercial activity:

- Section 104 of the Water Industry Act 1991 (S104): is a legal agreement between a developer and a water company, where the developer agrees to build sewers to an agreed standard, which the water company will then adopt. These are commercial terms between private developers and water companies
- Section 185 of the water Industry Act 1991 (S185): a builder or developer can request that a public sewer is altered, diverted or removed to allow a site to be developed. All parties involved (developers, consultants, contractors, project managers) need to be aware of the process, costs, legal and technical requirements and programme implications.

Based on the above, we consider this information is commercial/ industrial information.

**Confidentiality is provided by law:**

The restriction in relation to the disclosure of information obtained by virtue of the provisions of the Water Industry Act 1991 ("WIA") is set out in S206 WIA. The restriction contained in S206 WIA provides, insofar as is material that "no

information with respect of any particular business which (a) has been obtained by virtue of any of the provisions of this Act; and (b) relates to the affairs of any ... particular business, shall ... so long as that business continues to be carried on, be disclosed without the consent of ... the person for the time being carrying on that business.

**The confidentiality is protection a legitimate economic interest:**

In considering your request, we considered the following legitimate economic interests:

- Protected by the s206 Water Industry Act 1991, disclosure of this information would breach s206 and providing these details would undermine a developers competitive position and commercial strategy
- Financial securities (bonds and guarantees)

We had originally considered the financial information out of scope, our previous application of this was incorrect when we reviewed this at internal review and we have at internal review engaged 12(5)(e).

Although Regulation 5(6) of the EIR provides that other statutory bars on disclosure are overridden unless an EIR exemption applies, we consider Regulation 12(5)(e) to be engaged because:

- The information is not publicly available
- It is subject to a duty of confidence by s206 of the Water Industry Act 1991
- Disclosure would undermine confidentiality provided by that section
- It would adversely affect the legitimate economic interest of the parties concerned.

We have also considered the public interest test required while we recognise that there is a public interest in transparency and accountability and also promoting understanding of environmental issues. Against this we have weighed the public interest in complying with protecting commercially sensitive information and upholding statutory provisions of the WIA and not unlawfully breaching the

same. We have also considered that our customers and developers would expect Yorkshire Water to comply with the provisions of the WIA. We have concluded that on balance the public interest in this information being withheld is greater than in it being disclosed.

If you are not satisfied with the outcome of the internal review you have the right of appeal to the Information Commissioner who can be contacted at:

Information Commissioner's Office

Wycliffe House

Water Lane

Wilmslow

Cheshire

SK9 5AF

Tel: 0303 123 1113

Web: <http://www.ico.org.uk>

Thank you for contacting Yorkshire Water.

Yours sincerely,

Data Protection Team

Email: [EIR@Yorkshirewater.co.uk](mailto:EIR@Yorkshirewater.co.uk)