



IN THE FIRST-TIER TRIBUNAL Case Nos. EA/2013/0229 and 0232
GENERAL REGULATORY CHAMBER
INFORMATION RIGHTS

ON APPEAL FROM:

**The Information Commissioner's
Decision Notices No: FS50493153 and FS50493763
Dated: undated and 16 October 2013**

Appellant: MR S JOHNSON

Respondent: INFORMATION COMMISSIONER

Heard at: NEWPORT TRIBUNAL CENTRE, GWENT

Date of hearing: 31 MARCH 2014

Date of decision: 22 APRIL 2014

Before

ROBIN CALLENDER SMITH
Judge

and

JACQUELINE BLAKE and JOHN RANDALL
Tribunal Members

Attendances and written representations:

For the Appellant: Mr S Johnson
For the Respondent: Mr Richard Bailey, Solicitor for the Information
Commissioner

IN THE FIRST-TIER TRIBUNAL Case Nos. EA/2013/0229 and 0232
GENERAL REGULATORY CHAMBER
INFORMATION RIGHTS

Subject matter: FOIA 2000

Vexatious or repeated requests s.14

Cases:

Information Commissioner v Devon CC and Dransfield [2012] UKUT 440 (AAC)

DECISION OF THE FIRST-TIER TRIBUNAL

The Tribunal upholds the decision notice dated 4 September 2013 and dismisses the appeal.

REASONS FOR DECISION

Background to the two appeals

1. The Appellant, Mr S Johnson, made two separate requests for information from the Department of Work and Pensions (DWP) – containing a number of individual questions – during 2012.
2. In the first, on 5 November 2012, he asked for information contained in 17 separate questions. The request concerned two areas: a visit by DWP fraud staff to a particular job centre and about G4S staff at Jobcentres.
3. In the second, on 1 October 2012, he asked for information contained in 52 separate questions. The requests concerned a number of issues grouped under headings relating to the DWP's policies about or information on:
 - (1) Signing off of jobseekers' allowance.
 - (2) Formal complaints.

- (3) Work programme.
 - (4) Contact by Jobcentre.
 - (5) JSA sanctions.
 - (6) Jobcentre Plus Staff - SE Wales Region.
 - (7) Pontypool Jobcentre.
4. In each case the DWP refused to respond citing the provisions of s.14 FOIA 2000 and in each case the Information Commissioner concluded that the DWP were correct to do so.

The appeal to the Tribunal

5. Summarising the Appellant's Grounds of Appeal, in respect of both matters, he believed that:
- He had every right to ask the questions and have answers to them and had no desire or intention to be vexatious.
 - His questions were genuine and related to real events. The fact that they related to ongoing complaints and issues should not deny him access to the information.
 - The public interest in enquiring about DWP processes – which involved public money – required answers.
 - It was of concern that unknown DWP staff could sit on appointments without prior warning or consent.
 - He had witnessed G4S staff acting – apparently – as Jobcentre Plus employees on the front desk, dealing with appointments and directing clients. He was concerned that they had inappropriate access to private and confidential information, breaching data protection principles.
 - Inappropriate factors had been used by the DWP and the Information Commissioner to find his requests vexatious.
 - The questions were easy to answer and had a serious purpose and value. His “real and relevant questions” were not disproportionate or unjustified and were highly 'valuable' and significant as nationally the types of issue were key to how DWP operated in the public interest.

- The Information Commissioner's "so-called" new guidance was invalid.
 - The Information Commissioner had condoned and endorsed derogatory statements about him. He felt he was due a large amount of compensation for the hurt and distress he had been caused.
 - He had carefully grouped his requests into relevant areas rather than making generalised requests.
6. The Appellant repeated these complaints to the Tribunal during the oral appeal hearing. The Information Commissioner did not attend that hearing and relied on earlier written submissions.
7. Ahead of that hearing he had been provided by the Tribunal with a copy of the Upper Tribunal decision in *Dransfield*. He did not believe that any of the factors identified in that decision properly could be used to characterise his behaviour in either of the appeals.

The questions for the Tribunal

8. Were the Appellant's requests for information in respect of each of these appeals properly refused because they were vexatious by virtue of s.14 FOIA?

Conclusion and remedy

9. In respect of the issues in the first appeal the Tribunal finds that, while there might be serious issues in relation to the purpose and value of the information requested, they have been clouded by the Appellant's (admitted) private concerns and do not reflect matters of wider public interest.
10. The Appellant has produced no evidence of any wrongdoing occurring at the DWP offices or any fraud. Objectively this severely limits the purpose and value of the information requests when weighed in the

context of the impact on the public authority and the distress, disruption or irritation that would be incurred by complying with these requests.

11. In terms of the burden placed on the DWP it is quite legitimate for the history and the number of requests to be considered in the context of vexatiousness.
12. A detailed chronology has been provided about the Appellant's contacts, correspondence, complaints and requests. Although the Appellant disputes the way in which some of these have been characterised he had produced no evidence that the matters set out at Annex1 (Mr Johnson – complaints – correspondence) and Annex 2 (Stephen Johnston – Fol requests) are incorrect.
13. Annex 1 covers the period from 16 September 2009 and involves 79 entries from that date until 16 January 2013. Annex 2 covers the period from 13 October 2011 to 13 February 2013, covers 11 A4 pages and 10 individual sections.
14. The Appellant asked 120 questions in 5 separate requests over a 13-month period. The Tribunal is satisfied from the information provided - and not substantively contradicted during the appeal hearing - that the Appellant has written to different individuals or departments on the same day about the same issue making responses difficult to co-ordinate.
15. The Tribunal finds that this activity has taken up a disproportionate time, diverting the resources available to the DWP to deal with other matters. Compliance with the Appellant's continued requests would cause significant disruption to its usual course of business and be unduly burdensome in respect of the deployment of its resources.
16. In terms of harassment of - and distress to – staff, the sheer volume of the Appellant's activities noted at Paragraphs 12 - 14 above provide

objective evidence of the likelihood of that. It is understandable that staff would feel intimidated and reluctant to deal with the Appellant because to engage with him was to invite additional correspondence and complaints about his issues.

17. In respect of the issues in the second appeal – the 52 requests relating to Jobcentre Plus made on 1 October 2012 – again the Tribunal finds that these were disproportionate and would create an unjustified level of disruption, irritation or distress. They focus on his issues with Jobcentre Plus.
18. In terms of the burden on the DWP, and in addition to these 52 requests, the Appellant made 69 FOIA requests in four submissions and 14 subject access requests under the Data Protection Act 1998. Between submitting the instant 52 requests and these being refused he submitted a further 17 FOIA requests.
19. The information requests in both of these appeals have been properly characterised as vexatious and the DWP and the Information Commissioner were correct to characterise them in the way that each did.
20. For all these reasons the Tribunal finds that both appeals fail.
21. Our decision is unanimous.
22. There is no order as to costs.

Robin Callender Smith

Judge

22 April 2014