IN THE FIRST-TIER TRIBUNAL **Case No. EA/2014/0004**
GENERAL REGULATORY CHAMBER
INFORMATION RIGHTS

ON APPEAL FROM:
The Information Commissioner's Decision Notice
No FS50497523 dated 12 December 2013

Appellants:	**Nigel Tonks and Geoffrey Tonks**
First Respondent:	**Information Commissioner**
Second Respondent:	**Financial Ombudsman Service**
Date of hearing:	**28 May 2014**
Date of decision:	**27 June 2014**
Date of promulgation:	**30 June 2014**

Before

Anisa Dhanji
Judge

and

Henry Fitzhugh and Roger Creedon
Panel Members

Representation
For the Appellants: in person
For the First Respondent: no attendance
For the Second Respondent: Christopher Knight, Counsel.

Subject matter
Freedom of Information Act 2000, section 14(1) - whether requests were vexatious

Case law
Betts v Information Commissioner (EA/2007/0109)
Coggins v Information Commissioner and Department for Energy and Climate Change (EA/2007/1030)
Craven v IC and Department of Energy and Climate Change [2012] UKUT 442 (AAC)
Havercroft v Information Commissioner (EA/2012/0262)
Hepple v Information Commissioner and Durham County Council (EA 2013/1068)
Information Commissioner and Devon County Council v Dransfield [2012] UKUT 440 (AAC)

IN THE FIRST-TIER TRIBUNAL **EA/2014/0004**
GENERAL REGULATORY CHAMBER
INFORMATION RIGHTS

DECISION

This appeal is dismissed.

Signed **Date: 27 June 2014**

Anisa Dhanji
Judge

REASONS FOR DECISION

Introduction

1. This is an appeal by two brothers, Nigel and Geoffrey Tonks (the "Appellants"), against a Decision Notice issued by the Information Commissioner (the "Commissioner"), on 12 December 2013.

2. Some years ago, the Appellants made a complaint to the Financial Ombudsman Service (the "FOS") about Atkins Bland ("AB"), a firm from which they had received investment advice. They first contacted the FOS about AB in June 2005, and made a formal complaint in January 2010.

3. The Appellants have taken issue with the FOS' handling of their complaint, and this has given rise to a considerable volume of correspondence between the Appellants and the FOS. It is in this context that the Appellants made the request for information (the "Request"), which is the subject of this appeal.

The Request for Information

4. The Request was made on 20 August 2012, in the following terms:

We require all current FOS procedures which govern all the actions that should, or must, be taken by the following:

1. *FOS staff who receive referrals or complaints from members of the public:*
   a. *by phone; or*
   b. *in writing.*

2. *FOS staff charged with assessing whether the Financial Ombudsman Service has jurisdiction over complaints, where the staff are:*
   a. *Case-handlers; or*
   b. *Ombudsmen.*

3. *FOS staff who receive evidence of directors of regulated firms:*
   a. *flouting FSA regulations on complaints handling; including*
   b. *attempting to deceive the FSA and/or the FOS.*

We also require all current FOS procedures governing the following:

4. *Jurisdiction over multiple complaints by the same complaints against the same firm.*

5. *Complaints about FOS staff.*

6. *Provisions for re-adjudication (not review) of complaints.*

5. The FOS refused the Request, relying on section 14(1) of the Freedom of Information Act 2000 ("FOIA"). They confirmed the refusal following an internal review.

The Complaint to the Commissioner

6. The Appellants complained to the Commissioner under section 50 of FOIA. The Commissioner undertook enquiries, and considered representations made by the FOS and the Appellants.

7. By reference to the Upper Tribunal's decision in **Information Commissioner and Devon Country Council v Dransfield**, and to the Commissioner's own Guidance Note on vexatious requests, the Commissioner found that the FOS had correctly applied section 14(1), and that the Request was vexatious.

8. The Commissioner accepted that the Request was not without purpose, that the Appellants had genuine concerns, and that in part, their persistence was because of the problems they appear to have experienced, in the past, in getting the FOS to release information concerning their complaint. However, he found that the nature and volume of the correspondence from the Appellants had imposed a serious burden on the FOS. Responding to the Request would likely lead to and encourage further protracted correspondence.

9. The Commissioner noted that the purpose of the Request was to enable the Appellants to pursue their complaint against the FOS and certain members of staff who they believe to have been guilty of wrongdoing. However, the concerns raised by the Appellants had been the subject of an independent review and it had been found that there was no intentional wrongdoing. The continued pursuit of the grievance was obsessive and lacked proportionality.

10. The Commissioner also considered that the Request was driven by the Appellants' own private dispute with the FOS. There was no wider public interest in disclosure.

The Appeal to the Tribunal

11. The Appellants have appealed against the Decision Notice. The FOS was joined as the Second Respondent. The Appellants requested an oral hearing.

12. Prior to the hearing, the parties lodged an agreed bundle of some 833 pages. This includes about 28 pages lodged by the Appellants comprising documents which the other parties did not consider relevant. We have considered all the documents, even if not specifically referred to in his determination. At the hearing, the FOS lodged a bundle of authorities.

13. The Commissioner did not attend the hearing. Neither the Commissioner nor the FOS lodged any written submissions, but relied on the Responses they had previously lodged. The Appellants made written submissions by

way of a letter dated 11 May 2014 to supplement their grounds of appeal, and their letters dated 19 February 2014 and 10 April 2014.

14. At the start of the hearing, we explained the procedure of the hearing (bearing in mind that the Appellants were unrepresented), and discussed time estimates for each stage of the hearing. We also explained what the hearing was about (whether the Request was vexatious), and equally what it was not about (whether the FOA had been guilty of any wrongdoings). The Appellants confirmed that their interests in the proceedings were identical. It was intended that one would take the lead over the other in putting forward their evidence and arguments. In the event, they both participated more or less equally. We are satisfied that they had an opportunity to fully put forward their case.

15. We heard evidence, first, from Mr Philip Michael Cohen, Legal Counsel, employed by the FOS. He adopted his witness statement, and was examined and cross-examined by the Appellants, and we asked him a few questions. The Appellants, who had not lodged a witness statement, gave evidence at the same time as making their submissions. They also helpfully explained the relevance of various documents they were relying on. They were not cross-examined, although the panel asked them some questions.

The Tribunal's Jurisdiction

16. The scope of the Tribunal's jurisdiction in dealing with an appeal from a Decision Notice is set out in section 58(1) of FOIA. If the Tribunal considers that the Decision Notice is not in accordance with the law, or to the extent that it involved an exercise of discretion by the Commissioner, he ought to have exercised the discretion differently, the Tribunal must allow the appeal or substitute such other Notice as could have been served by the Commissioner. Otherwise, the Tribunal must dismiss the appeal.

17. Section 58(2) confirms that on an appeal, the Tribunal may review any finding of fact on which the Decision Notice is based. In other words, the Tribunal may make different findings of fact from those made by the Commissioner, and indeed, as in this case, the Tribunal will often receive evidence that was not before the Commissioner.

The Statutory Framework

18. Under section 1 of FOIA, any person who makes a request for information to a public authority is entitled to be informed if the public authority holds that information, and if it does, to be provided with that information.

19. The FOS was designated as a public authority under The Freedom of Information (Designation as Public Authorities) Order 2011, which came into force in October 2011.

20. The duty on a public authority to provide the information requested does not arise if the information sought is exempt under Part II of FOIA or if certain other provisions apply. In the present case, FOS has invoked section 14. This section does not provide an exemption as such. Its effect is simply to render inapplicable the general right of access to information contained in

section 1(1). Where section 14 applies, the public authority does not have to provide the information requested, nor indeed is it required to inform the requester if it holds the information.

21. Section 14 sets out two grounds on which a public authority may refuse a request. The first is where the request is vexatious. The second is where the request is identical or substantially similar to a previous request that the public authority has already complied with. Section 14(1) is concerned with whether the request is vexatious, and not whether the applicant is vexatious.

22. Specifically, section 14 provides as follows:

> *(1) Section 1(1) does not oblige a public authority to comply with a request for information if the request is vexatious.*
>
> *(2) Where a public authority has previously complied with a request for information which was made by any person, it is not obliged to comply with a subsequent identical or substantially similar request from that person unless a reasonable interval has elapsed between compliance with the previous request and the making of the current request.*

Evidence

23. It might be helpful if we set out, at this point, some aspects of the evidence given by Mr Cohen in his witness statement as regards the role of the FOS and the events leading to the Request. We understand that these matters are not in dispute.

24. The FOS scheme was established to provide for a quick, independent and informal procedure for resolving complaints within the financial services industry. When a complaint is received, it has to be decided whether that complaint falls within the jurisdiction of the FOS, and whether it should be dismissed without considering the merits. An adjudicator is allocated to carry out that initial investigation. If either party does not accept his decision, the complaint may be passed to an Ombudsman who will carry out his own investigation and consider the matter afresh.

25. Separately, the FOS also investigates complaints about the level of service it has provided. A service complaint is first referred to the relevant manager for investigation and review. Once the internal complaints procedure is exhausted, the complaint may be referred to an independent assessor. If the independent assessor considers that a service complaint should be upheld, in whole or in part, he may recommend that the FOS should apologise or pay appropriate compensation.

26. The Appellants complained to the FOS about AB. On 27 August 2010, the complaint was dismissed by an adjudicator on the basis that it was time-barred, and also, that it was not appropriate for the complaint to be dealt with given the length of time between the Appellants' first contact with the FOS in 2005 and their formal complaint in 2010. The merits of the complaint were not, therefore, considered.

27. The Appellants were dissatisfied with the adjudicator's decision and entered into extensive correspondence with the FOS. The matter was referred to an FOS Ombudsman who issued his decision on 29 March 2012. He found that the complaint was not time-barred. However, he dismissed the Appellants' complaint without considering the merits on the basis that the delay in pursuing the complaint was unreasonable.

28. The Appellants made further complaints to the FOS which were dismissed by an adjudicator on 31 May 2012, and by an Ombudsman on 29 November 2012, on the grounds that they did not substantially differ from the previous complaint.

29. Following the Ombudsman's decision on 29 March 2012, the Appellants submitted a number of requests for information and entered into further extensive correspondence with the FOS.

30. On 2 October 2012, the appellants made a service complaint to the Chief Executive and Chief Ombudsman of the FOS about the way in which the FOS had dealt with their complaint about AB. A senior manager investigated the complaint. As set out in his letter dated 29 October 2012, he found that whilst there had been some mistakes in the handling of their case, (for which the FOS offered the Appellants £300 by way of compensation), the allegations of bad faith, perverting the course of justice, distortion of evidence, manipulation of records, and failure to follow due process, were not made out.

31. The Appellant then complained to the Independent Assessor. By a letter dated 19th of December 2012, the Independent Assessor found that in some respects, the FOS had fallen below a reasonable level of service and recommended compensating the Appellants in the sum of £400. She dismissed the allegations of dishonesty and bad faith. She said that she had found no evidence to support these allegations. The Appellants disagree with her decision and say, amongst other things, that she did not consider the evidence that they put before her. They describe her as a "compliant" Independent Assessor who has helped the FOS to conceal serious wrongdoings by certain members of its staff.

Findings

32. The only issue in this appeal is whether the Request is vexatious.

33. FOIA does not define "vexatious". However, the Upper Tribunal ("UT") has offered guidance in three recent cases as to what the term means – Information Commissioner v Devon County Council and Dransfield; Craven v Information Commissioner and Department of Energy and Climate Change, and Ainslie v Information Commissioner and Dorset County Council. This was the first time an appellate court or tribunal had been directly faced with the issue of what vexatiousness means in the context of information requests. We understand that after the hearing in the present appeal, the Court of Appeal has granted permission to appeal to Mr Dransfied and Ms Craven. However, as yet, no date for that appeal has been set, and in any event, the law at present remains as stated in the above decisions. We have proceeded, therefore, to determine the appeal

on that basis, and have neither received (nor invited) any application from the parties that we should do otherwise.

34. The three cases referred to above all concerned section 14(1) of FOIA and/or the corresponding provision under the Environmental Information Regulations 2004. The cases were heard by Judge Wikeley who treated Dransfield as the 'lead case' and set out helpful guidance on the meaning of "vexatious". We have summarised this below:

- "Vexatious" is a word that takes its meaning and flavour from its context. In the context of section 14, "vexatious" carries its ordinary and natural meaning, within the particular statutory context of FOIA. The dictionary definition of "vexatious" as *"causing, tending or disposing to cause … annoyance, irritation, dissatisfaction or disappointment can only take us so far"*. As a starting point, a request which is annoying or irritating to the recipient may well be vexatious, but it depends on the circumstances.

- "Vexatious" connotes *"manifestly unjustified, inappropriate or improper use of a formal procedure"*. Such misuse may be evidenced in different ways.

- The Commissioner's guidance that *"the key question is whether the request is likely to cause distress, disruption or irritation without any proper or justified cause provides a useful starting point so long as the emphasis is on the issue of justification (or not)"*.

- The purpose of section 14 is to protect public authorities and their employees in their everyday business. Thus, consideration of the effect of a request on them is entirely justified. A single abusive and offensive request may well cause distress, and so be vexatious. A torrent of individually benign requests may well cause disruption. However, it may be more difficult to construe a request which merely causes irritation, without more, as vexatious under section 14.

- An important aspect of the balancing exercise may involve consideration of whether or not there is an adequate or proper justification for the request.

- A common theme underpinning section 14(1) as it applies on the basis of a past course of dealings between a public authority and a particular requester, is a lack of proportionality.

35. He stressed that this guidance is not intended to be prescriptive. He went on to say that the question of whether a request is truly vexatious may be determined by considering four broad issues or themes:

- the burden on the public authority and its staff;

- the motive of the requester;

- the value or serious purpose of the request; and
- any harassment or distress caused to the staff.

In paragraphs 29 to 45, he set out further guidance about each of these four themes. We will consider each in turn.

Burden

36. The witness statement of Mr Cohen has, annexed to it, as Schedule 1, a document described as a "Summary of Relevant Correspondence between 27 August 2010 and 20 August 2012". Schedule 2 is a "Summary of Relevant Correspondence from 21 August 2012". The Request was made in August 2012. Although events after the date of the Request may shed light on the position as at the date of the Request, it is primarily Schedule 1 that we are concerned with. Some of these dealings pre-date the application of FOIA to FOS, but we do not consider (nor has it been suggested), that this has any bearing on the assessment as to whether the Request is vexatious. We consider that it would be entirely artificial to treat what came after October 2011 as being divorced from what came before.

37. The Appellants have pointed out, painstakingly, both in their written submissions and at the hearing, that there are inaccuracies in Mr Cohen's witness statement and in Schedule 1. We accept (as indeed did Mr Knight on behalf of the FOS), that there are facts which have not been presented entirely accurately, and that in some cases, they may be misleading. However, having heard Mr Cohen's responses to the questions put by the Appellants, and having considered the particular points raised by the Appellants, we do not find that there was an intention to mislead. It may be that FOS could have taken greater care in preparing the schedule, but it is intended to be a summary, as it states, and by its nature a summary will not be as complete and as detailed as the full text of what is being summarised.

38. Whatever inaccuracies there may be, what the schedule undeniably shows is that the correspondence (emails and letters), and in particular, the correspondence originating from the Appellants, has been very considerable indeed. It has also been frequent and lengthy. The schedule alone comprises some 11 pages and lists well over 100 different items of correspondence. Some of the items referred to are several pages long. A letter dated 1st December 2010, for example, is said to attach 55 documents. The FOS have referred, in particular, to a request dated 2 July 2012, which they say encompassed in excess of 60 requests for information. The FOS say that the paper file they hold of correspondence to and from the Appellants, is in excess of 2,500 pages.

39. Clearly, not all the correspondence comprises requests for information. However, the common thread is the Appellants' grievance about the way in which their complaint about AB has been handled. In our view, the communications, including requests for information, must be seen in their totality. This is inkeeping with Judge Wikeley's guidance in Dransfield (at paragraph 29):

"First the present or future burden on the public authority may be inextricably linked with the previous course of dealings. Thus the context and history of the particular 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."

40. The FOS say that they have found the nature and extent of the correspondence difficult to manage. It has been a resource intensive process. At times, their Information Rights Officer has had to deal with correspondence from the Appellants on an almost daily basis. Not only has the volume of correspondence been considerable, but it has been frequent, often lengthy and detailed, and also, it has often been overlapping in its nature and content. The FOS has given various examples in support of these assertions. They say, in addition, that the Appellants sometimes correspond individually with the FOS, but ask to be copied into communication with each other, send inter-linked letters and cross-refer to communications from each other, and that this, too, makes their correspondence burdensome to deal with. We have had sight of some of this correspondence, but not the bulk of it. We accept, however, that the Appellants' requests for information and related communications, have placed a considerable burden on the FOS. Indeed, we do not understand the Appellants to dispute what the FOS say about the burden on them arising from their dealings with the Appellants.

41. In relation to the Request itself, the FOS point out that it is wide ranging. It includes all procedures recorded by the FOS to deal with complaints from members of the public against financial businesses, all procedures dealing with the circumstances in which the FOS has jurisdiction over complaints, all procedures covering complaints relating to allegations of non-compliance with the regulatory framework, all procedures relating to multiple complaints by the same complainants against the same financial business, the procedures for dealing with complaints against the FOS staff, and the procedures for dealing with the re-adjudication of complaints. They say that to locate the documents containing the information requested would involve a search across departments, that a number of the documents would need to be reviewed individually to see which exemptions might apply, and that the task would represent a considerable diversion of resources from their core functions.

42. As in Dransfield, the future burden must also be considered. Mr Cohen says, in his witness statement, that if the Request is complied with, the Appellants will continue to engage in extensive correspondence with the FOS about the manner in which the FOS has dealt with their complaint, and that in all likelihood, it will lead to further protracted correspondence from the Appellants which will create a further burden on the FOS. He also says that the information coming within the scope of the Request does not relate to the Appellants. Rather it relates to procedures of generic application and it is unlikely, therefore, to lead to closure of the Appellants' grievance.

43. At the hearing, we asked the Appellants what they expected they would achieve if the Request were to be complied with. It was clear, from their evidence, that it would be most unlikely to bring this long running grievance to any kind of conclusion. They were frank in saying that they are trying to find out whether, in dealing with their complaints, the FOS had been in breach of any of its own procedures. If not, they want to highlight the failings of those procedures.

44. In our view, putting it bluntly, the Request is, in effect, a fishing expedition. In principle, this itself does not offend against FOIA. However, given the volume of material potentially encompassed within the scope of the Request, we are in little doubt that it will provide fruitful ground for further questions, further requests, and further correspondence. We are also in no doubt, that this would mean that the parties would be embroiled in further back and forth correspondence for months, if not years, to come. In short, we are satisfied that the future burden is likely to be very considerable.

We have considered whether and to what extent the nature and volume of the requests and other correspondence about the Appellant's grievance has been the result of failures on the part of the FOS in their dealings with the Appellant's. As Judge Wikeley pointed out in Dransfield at paragraph 30:

> *"… if the public authority in question has consistently failed to deal appropriately with earlier requests, that may well militate against ... a finding that the new request is vexatious".*

45. The Appellants say and the Commissioner accepted, as do we, that to some extent, at least, the Appellants persistence has been because of difficulties they have experienced, in the past, in obtaining information from the FOS. Although no doubt, the FOS could have done better at times, and although the Appellants may quite reasonably not have been satisfied with some of the responses they received, that is a different matter from saying that the public authority has consistently failed to deal appropriately with earlier requests and is now simply complaining about the burden of dealing with the Request. We do not find, on the evidence before us, that that is the case.

46. To their credit, the Appellants have not disputed what the FOS say as to the nature and extent of their communications and the burden this has placed on the FOS. What they say, however is that the Request is justified because the FOS is guilty of wrong doings which it is now trying to cover up. This brings us to the next of the themes identified in Dransfield, namely the motives of the requester, and the value or purpose of the request.

Motive, value and purpose

47. For convenience, we have considered these two themes together because on the facts of the present case, as indeed in Dransfield, the issues are closely intertwined.

48. The motive of the requester may well be a relevant and indeed a significant factor in assessing whether a request is vexatious. Judge Wikeley noted in Dransfield, at paragraph 34, that *"the proper application of section 14*

cannot side-step the question of the underlying rationale or justification for the request". He pointed out that there is a balancing exercise to be undertaken. On the one hand, it is important that public authorities should not be exposed to the irresponsible use of FOIA. On the other hand, a single request may quite legitimately prompt a further request for more information and a series of requests may well be reasonable when viewed both individually and in context as a group. In other circumstances, a series of requests may suggest that later requests have become disproportionate to whatever the original inquiry was. He described this as *"vexatiousness by drift*". As regards the value or serious purpose of the request in terms of the objective public interest in the information sought, Judge Wikeley noted that in some cases, the weight to be attached to that value or purpose may diminish over time and subsequent requests may not have a continuing justification.

49. In our view, *"vexatiousness by drift"* aptly describes the present case. We accept (as indeed do the Commissioner and the FOS), that the Appellants may well have legitimate concerns about the way in which the FOS has handled their complaint about AB. However, we find that the Appellants' quest has become disproportionate to that original purpose. They are seeking something, or indeed anything, with which to reopen the issues. This is notwithstanding that they say (as they reiterated at the hearing), that they already have evidence of FOS's wrongdoings. As they say in their submissions dated 11 May 2014, they want to obtain the policies and procedures coming within the scope of the Request because they think these will show whether the intentional wrongdoings they allege contravene those policies and procedures.

50. We accept that the Appellants genuinely believe that the FOS mishandled their complaint and that it is now engaged in some sort of cover up. However, we keep in mind that there are avenues for such allegations to be addressed which the Appellants could have used, as indeed did use albeit subsequent to the date of the Request. As already noted, they made a service complaint which led to their allegations as to wrongdoings being dismissed, first by an adjudicator, and then by the Independent Assessor. In short, they did not get the outcome that they had hoped for. Indeed, they may never do. Convinced though they are that the FOS have been involved in serious wrongdoings, we consider that their on-going pursuit of further information in a speculative search for evidence to support that conviction, has lost the justification it may have once had.

51. The Appellants assert that in addition to their private interests, they are also pursuing this matter because of the public interest involved. They say that there is an enormous public interest, indeed a public duty, to expose wrongdoings within a public body, especially when safeguards which are presumed to be in place to prevent such wrongdoings have either been inadequate or effectively ignored. As regards the policies and procedures coming within the scope of the Request, in particular, they say that if they have been breached by the FOS or if those policies and procedures are inadequate to prevent the wrongdoings they allege, then they are not fit for purpose, and that this, too, is a matter of public interest.

52. We do not agree with the Appellant's arguments in relation to public interest. First, as already noted, the scope of the Request is particularly broad ranging. It is not targeted at any specific area of alleged wrongdoing. Rather, on the Appellant's own evidence, it is a speculative net cast wide, to see what they might find. Also, the Appellants have repeatedly asserted that they already have evidence of the wrongdoings they allege. If that is the case, then they can expose those wrongdoings without further information requests. It is also the case that there may be other more appropriate channels for redress. Some of the allegations made by the Appellants go so far as to allege actions that may amount to criminal acts in which case, the Appellants can refer their complaint to the police who would have the power to carry out the necessary investigations. There is no suggestion that they have attempted to do so. The allegations of wrongdoings can also be investigated by an Independent Assessor, as indeed they were and dismissed. Albeit that this was after the date of the Request, it sheds light on the position as at the date of the Request and is clearly a relevant consideration. While it is not our task to make findings of the Independent Assessor on the allegations of wrongdoings do suggest that the allegations are unfounded, and this, too, undermines the public interest arguments.

Harassing or causing distress to the staff

53. In Dransfield, Judge Wikeley point out that although a finding of vexatiousness does not depend on there having been harassment or distress of the public authority's staff, 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…"*

54. Although the Request appears entirely benign in its tone and scope, it must of course be viewed in context. We note from the evidence before us, that the Appellants have accused the FOS, at various times, of deliberate misrepresentation, intentional wrongdoings, criminal acts, persistent wrongdoing, concealment, obstruction, dishonesty, mishandling of their complaints, distorting evidence, inventing evidence, deceit and lying. They have also accused the FOS of abandoning impartiality, and closing ranks. Some of these allegations have been directed at the FOS generally, and others have been directed at specific individuals within the FOS.

55. Allegations of this nature have both pre-dated and post-dated the Request. We see little merit in making a precise distinction between exactly which allegations were made before the Request and which were made after. There is clearly a continuum to these allegations and many were repeated during the hearing. Indeed, in their submissions dated 11 May 2014, the Appellants reiterate the allegations of wrongdoings which they say includes "misinformation, concealment, several distortions of evidence, false claims, deception, withholding key documents and lying".

56. We do not have any evidence before us, from any individual members of staff, about the effect on them of such allegations. It might have been helpful to have had such evidence. Nevertheless, and although we recognise that it may not have been the Appellants' intention to cause

harassment or distress, we accept, given the nature of the allegations, that they are likely to have had that effect on the FOS staff. We also find it likely, given the Appellants' conviction that the FOS are deliberately withholding information to conceal their wrongdoings, that they would likely never be satisfied with any responses the FOS could give, and that the allegations, and hence the harassment and distress, would continue.

57. For all these reasons, we are satisfied that the Request was properly characterised by the Commissioner to be vexatious. Accordingly, we uphold the Commissioner's Decision Notice and dismiss this appeal.

Decision

58. This appeal is dismissed. Our decision is unanimous.

Signed

Anisa Dhanji
Judge

Date: 27 June 2014