



Neutral Citation Number:

IN THE FIRST-TIER TRIBUNAL
GENERAL REGULATORY CHAMBER
(INFORMATION RIGHTS)

Appeal No: EA/2015/0052

ON APPEAL FROM:

The Information Commissioner's Decision Notice No: FS50561125
Dated: 23 February 2015

Appellant: Robert Pickthall

Respondent: The Information Commissioner

Heard at : Chester Civil Justice Centre

Date of Hearing: 6 July 2015

Before

Chris Hughes

Judge

and

Anne Chafer and Paul Taylor

Tribunal Members

Date of Decision: 11 July 2015

Attendances:

For the Appellant: in person

For the Respondent: did not attend

Subject matter:

Freedom of Information Act 2000

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 23 February 2015 and dismisses the appeal.

REASONS FOR DECISION

Introduction

1. Mr Pickthall used to live near Butcher's Stile Playing Fields in the village of Davenham in Cheshire. He told the tribunal that he was concerned about the welfare of vulnerable people who had been his neighbours and how they were affected by anti-social behaviour on an area of open ground between the playing fields and a road. He has pursued this issue with various public bodies over the years.

2. Mr Pickthall wrote to West Cheshire and Chester Council ("the Council) and asked for copies of deeds. The Council replied pointing out that he had already had received hard copies of the material requested. On 8 October 2014 he replied:-

"Hi Guys, - yes I agree your Council did but only after being investigated and pressed by the Information Commissioner finally agree in February 2013 to provide me copies of Deed packets H98/H50.

Guys having been made perfectly aware by Davenham Parish Council it was not going to accept my gift of £7,000 the deeds were no longer of use to me so I had them destroyed

Under the exceptional circumstances surrounding my request, namely the needs of the Davenham children,...."

3. On 11 October he wrote again (making the request which was the subject of the Information Commissioner's decision) to Cheshire West and Chester Council ("the Council"):-

"Official records, and your responses to my research of 2012, confirm your Council having stolen a large area of Butchers Stile Playing Fields, land owned by the Parish Council since 1955, HM Land Registry confirmed the theft. In November 2012 and as a result of my complaints Maria O'Neill, your Councils[sic] property Manager, wrote to Northwich solicitors Dixon Rigby Keogh who acted for Davenham Parish Council, brokering a Try Party [sic] deal which would see that part of Butchers Stile her Council had stolen returned to the Parish Council on condition it agreed to gift free

of charge to Weaver Vale Housing Trust Ltd that part of Butchers Stile Playing Fields the Trust had stolen from it in 2002 – the Parish Council agreed.

Please confirm the exact date your Council returned the land to the Parish Council via HM Land Registry, and please provide me copy of all correspondence your Council exchanged with HM Land Registry when organizing the return of the land.”

4. The Council replied on 10 November 2014 (bundle pages 34-37). It resisted the request on the grounds that it was vexatious, quoting comments from an e-mail he had sent on 20 October 2014 *“my colleagues and myself thoroughly enjoy participating in your game – you continue to prove yourselves excellent entertainment and that is why we always Tweet your correspondence”*. The response noted that Mr Pickthall would not be satisfied with any response and dealing with this and follow up requests would place excessive demands on the Council resources and limit its ability to assist genuine applicants for information. The response stated that the continued requests on this subject harassing, obsessive, burdensome, unreasonable use of the legislation for entertainment: - *“your request is futile, in that the Council has previously set out its Council’s position and understanding of land ownership and history of land transfers and considers that there are no further avenues to be investigated; the matter, having been independently investigated by the Council’s audit team, is considered to be closed and no useful purpose will be served by continuing correspondence about the matter”*.

5. Mr Pickthall complained to the Information Commissioner. In responding to the complaint the Council explained (DN page 4 paragraph 16):-

“In a 22 month period between July 2012 and May 2014 there were over 2,400 emails received and over 1000 items of correspondence from [the complainant]. Since 2011 the Council has dealt with around 90 requests for information, a large amount of which were subsequently subject to internal review.”

6. The Council further explained that it had been forced to use a single point of contact with Mr Pickthall in order to manage the process effectively. This had been a matter of complaint to the Local Government Ombudsman; however this had been rejected. The Council had previously provided all the information it held about the land in question. It had provided him with substantial explanations and assistance to help him understand and this had imposed a significant burden. To accede to the request

would be disproportionate and would simply generate further demands and harassment of staff.

7. In his decision notice the Information Commissioner concluded (DN paragraph 32):-

The Commissioner is mindful that the Council has already considered a significant number of information requests raised by the complainant in respect of Butchers Stile Playing Fields. It has spent a significant amount of time, effort and resources in dealing with the complainant's requests and the cumulative effect of these requests has now past the point of where requests on this same issue are excessively burdensome.

8. He cited the judgment of the Upper Tribunal in *Wise v The Information Commissioner* (GIA/1871/2011) “...there must be an appropriate balance between such matters as the information sought, the purpose of the request and the time and other resources that would be needed to provide it.” He supported the position of the Council.

9. The grounds of appeal put forward by Mr Pickthall in response to the decision notice were:-

My campaign has always been to close off an unlawfully constructed access which unlawfully enables gangs to meet on the playing fields get drugged and drunk and socially abuse 18 vulnerable adults living on the adjacent sheltered housing site.

The ICO inform me “there must be an appropriate balance between such matters as the information sought, the purpose of the request, and the time and other resources that would be needed to provide it”

The information is essential to the safe keep of the vulnerable adults and must outweigh any inconvenience to any public officer.”

With respect to the outcome of the appeal he stated:-

The information is retained in 2 deed packets H90 –H98 – I seek copies and access of all documents

10. The Commissioner in responding noted that Mr Pickthall had failed to identify any specific aspect where the decision notice was unlawful – there was no particularisation. He further drew attention to wide-ranging and unsubstantiated allegations of corruption against the Council, the Cheshire Constabulary and a

reference in an email to the Commissioner to “*your own corrupt officers*” (bundle page 55 email 13 January 2015).

11. In his arguments before the tribunal Mr Pickthall asserted an unqualified right to public documents. He confirmed that he had made over 100 requests over four years on 12-15 subjects. He stated that his concerns about the Council were “*much more extensive than fraud*”. Refusing his information request was denying him a human right, dishonest and fraudulent. The Information Commissioner in compiling a “*misleading bundle*” had been “*fraudulent*”. However he challenged the veracity of the quotation from one of his emails in the Council’s response of 8 November (paragraph 3 above) where Mr Pickthall referred to “*games*” by stating that since the e-mail was not in the bundle there was no evidence for the truth of the statement.
12. At page 83 of the bundle, a publication of Mr Pickthall listed various individuals “*all dishonest public servants*”. He stated “*I am putting those names into the public domain, there must be some truth in what I am saying*”.
13. He indicated that he was investigating a variety of issues, including historic child sex abuse and the failure of parish councils to register as data controllers. He made allegations of corruption against members of the Council.
14. He acknowledged that the Council had in the past supplied him with copies of two different bundles of property records H50 and H98. On his account they had not been delivered by a courier, then they had been delivered and were extensive. However he no longer had the documents – on one account in his response to the Council on 8th October 2014 quoted above (Para 2) he states that H50 and H98 had been destroyed, on another account given in his oral submissions they had been lost in a computer failure and a third account was that while boxes containing hardcopies were being moved by a courier some boxes got lost. While he argued that the release of the documents to him was essential for the welfare of the residents of the sheltered housing in order to protect them from anti-social behaviour by closing the path, he acknowledged that the police were constantly acting in the area.

Consideration

15. The tribunal noted his oral evidence was inconsistent with his own documents. The tribunal was satisfied that his evidence was unreliable, flexible and intended to

mislead the tribunal. He seemed determined to create, out of a confusion in conveyancing, a scandal. The tribunal noted that a previous tribunal in considering a request by Mr Pickthall from Davenham Parish Council relating to records noted that:-

“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.

... With the goodwill of all concerned, legal experts are now sorting out the conveyancing mistakes that were made in the past.” (EA/2013/0211).”

16. We further note, despite Mr Pickthall's protestations during the hearing that the Council had provided no proof he had said he and his colleagues treated requests as a game, those comments are available publicly at https://www.whatdotheyknow.com/request/common_purpose_uk_leadership_dev#outgoing-398350.
17. There was no rational connection between the information sought and the public benefit which Mr Pickthall claimed to be pursuing. He had attempted to swamp the Council with a barrage of communications, many of them defamatory. The effect of this was to obstruct the Council in its proper work and harass the staff in a futile exercise concerning his obsessions with no possibility of public good.
18. The tribunal was satisfied that the Information Commissioner's decision was correct in law and upheld that decision.
19. Our decision is unanimous.
20. The tribunal is further satisfied that there may be grounds under The Tribunal Procedure (First-Tier Tribunal) (General Regulatory Chamber) Rules 2009 rule 10(1)(b) for concluding that Mr Pickthall in bringing and conducting this appeal has acted unreasonably. In order to enable this matter to be properly considered the Tribunal directs:-

- a) The Information Commissioner file details of his legal costs in responding to this appeal within 14 days of the date of this decision and serve a copy of that statement of costs on Mr Pickthall and any observations he wishes to make on the award of costs.
- b) Mr Pickthall by 15 August make any representations as to why he should not pay costs or costs in the sum identified by the Information Commissioner;
- c) Mr Pickthall by 15 August provide details of his income (including details of his salary and any state benefits and benefits in kind he has received during the last 3 months) and expenditure, including his last 3 months bank statements, details of any other savings, investments or other accounts he has and identify any property he owns with details of purchase price, date of purchase and outstanding mortgage.

Judge Hughes

[Signed on original]

Date: 14 July 2015