



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

Appeal No: EA/2017/0062

ON APPEAL FROM:

**The Information Commissioner's Decision Notices:
FS50622654 FS50636574 FS50636604 FS50637739 FS50650239
Dated: 6 March 2017**

Appellant: Neil Gilliatt

Respondent: The Information Commissioner

Heard on the papers at Fleetbank House EC4

Date of Hearing: 4 September 2017

Before

Chris Hughes

Judge

and

Alison Lowton & Narendra Makanji

Tribunal Members

Date of Decision: 19 October 2017

Date of Promulgation: 20 October 2017

Subject matter:

Freedom of Information Act 2000

Cases:

Information Commissioner -v- Devon County Council and Dransfield

DECISION OF THE FIRST-TIER TRIBUNAL

The Tribunal upholds the decision notice dated 6 March 2017 and dismisses the appeal.

REASONS FOR DECISION

Introduction

1. In 2011 the Appellant had a dispute with his local council, North East Lincolnshire (NEL) with respect to non-payment of council tax which resulted in him being summoned to Grimsby Magistrates Court and incurring significant bailiffs' charges. He complained to Humberside Police about the process. The Police declined to investigate as in the police view the allegations were not about crime. He subsequently complained to the Police that the Council and its bailiffs committed fraud in relation to collection and enforcement of Council tax. The Police again declined to investigate and told him in 2014 that they would only investigate where there were good grounds to believe an offence had been committed. The Appellant complained to the IPCC.
2. In 2015 the Council applied for a council tax liability order against the Appellant. He resisted claiming that a Council employee had signed a false statement in making the application. A liability order was granted by the court and the Appellant claimed that the judge was therefore complicit in perjury. He complained to the Police and then on 8 March 2016 he applied to Grimsby and Cleethorpes Magistrates' Court to bring a prosecution against a named police officer for on 11 November 2015 "*...improperly exercising police powers in responding to a reported offence of perjury to defraud, by stating that the matter did not concern the Police as it was civil.*" In support of the that application he set out the information submitted to the Police on 8 November 2015:- "*North East Lincolnshire Council produced a false witness statement (thereby committing perjury) with regards a council tax liability hearing at Grimsby Magistrates' Court. The District Judge [name redacted] was aware that the evidence surrounded a false and corrupt statement, but nevertheless granted the council a liability order to enforce a fraudulent sum*

which presently stands at £120.00. This sum is likely to increase if the council appoints its criminal firm of bailiffs [name redacted] My allegations are that the council has committed perjury with the intent to fraudulently obtain money from me by the use of Grimsby Magistrates' Court and that Judge [name redacted] has perverted the course of justice by being complicit to that crime."

The Police again refused to investigate and the Appellant applied for a summons against Humberside Police for failing to exercise its powers. On 26 April 2016 the court refused.

3. On 27 August 2015 the Appellant was arrested and subsequently charged with an offence under the Public Order Act. The court subsequently prohibited him from conducting a cross-examination of witnesses. The Appellant complained to Humberside Police claiming the officer who had arrested him had incited the two civilian witnesses against him to commit perjury. The Police explained that it was not practice to investigate allegations of perjury unless the court hearing the case commented on the evidence or there were other exceptional circumstances, they recommended that the Appellant challenge the evidence through the court process. The Appellant failed to attend the hearing set for 15 December as he did not consider the judge fit and proper since he had dealt with the Council Tax hearing. He was convicted on 22 December. On 1 February he wrote to the Police seeking confirmation that they had recorded the allegations about the witness statements as a crime. On 12 April 2016 he appealed against conviction. Leave was refused on the grounds that *"you deliberately absented yourself from trial. No adequate reason has been put forward as to the appeal is almost 3 months out of time."*

The requests for information

4. Over the years the Appellant has made a number of requests under FOIA to the Humberside Police. These include:-
 - (27 June 2015) Is the likelihood of there being a [name redacted] at Humberside Police.... being pretty remote, down to another lie told by the force? Please confirm whether the person described, with whom I supposedly attended a meeting on 16 April 2015 to discuss fraud

allegations concerning [name redacted] abetted by NEL is a real (not made up) person. **The Police confirmed that he did indeed exist.**

- (29 August 2015) Please disclose data relating to Humberside Police officers inciting perjury in the period from 2005 to the present. **The Police confirmed the information held on this issue – no occasions, 9 allegations, no convictions.** The Appellant replied:-
“Despite not knowing the circumstances, I do know the skewed way Humberside Police operates... through a process of lies and obfuscations”
- (29 August 2015) The Appellant asked a multi-part question relating to arrests which amount to perverting the course of justice, wrongful arrests and false imprisonment. **The Police provided information.**
- (2 September 2015) The Appellant asked:- *“How much – if any – has been paid in total to senior officers (particularly the Chief Constable) by NEL and Hull City Councils and/or [name redacted – bailiffs] for turning a blind eye to allegations of fraud”* **The Police replied.**
- (30 September 2015) The Appellant asked about details of complaints against the officer who had arrested him and details of any information about a police officer employed by Humberside accused of inciting a police officer to commit perjury. **The Police replied relying on s40(5) neither confirming nor denying.**

5. From 3 December 2015 he made a series of five information requests of Humberside Police intimately linked with his allegations which are the subject of this appeal. They are set out in full in the decision notice and may be summarised:-

- Information concerning a refusal to investigate NEL and its bailiff in 2013
 - An allegation that “an innocent member of the public” had been “stitched-up” because of highlighting police complicity with fraud and seeking information relating to a complaint made in connection with this on 8 November 2015
 - Information about who was dealing with the complaint made in a report submitted on 22 February 2016 alleging perjury in the witness statements used in his prosecution.
 - A request for Humberside Police policies with respect to *“fabricating evidence, turning blind eye to false witness statement...”*
 - A request relating to the Humberside police solicitor including *“how much taxpayer’s money is paid to the force’s solicitor for the purposes of perverting the course of justice?”*
6. The Police did not respond. The Appellant complained to the ICO. The Police confirmed that they relied on s14(1) as the requests were vexatious. The ICO investigated each information request separately.
7. She explored the Appellant’s position (DN paragraphs 18-22). There was a large scale fraud by NEL claiming arrears of council tax. Humberside Police had refused to investigate this as a criminal matter and were turning a blind eye, failing to respond to his complaints correctly. He had been stitched up with fabricated evidence, suffering gross injustice because he had highlighted a fraud in which they were complicit. He wanted the information he had requested.
8. The police position (paragraphs 22-28) was that it arose from the council tax dispute. He complained of police failure to investigate fraud and perjury, sought information about several police officers, he was unreasonably persistent, he was making connected FOIA requests in growing numbers despite his appeals being unsuccessful, he made unfounded accusations his allegations of perjury were found to be untrue, he used aggressive and abusive language in his information requests, much of his material had been

posted on the WDTK website, however his account had been suspended due to its allegedly defamatory content. He had been corresponding since 2011, the level of correspondence had been rising, reaching items 90 in one recent year, he had been warned in January 2016 that his requests would be considered defamatory.

9. The ICO (paragraphs 29-35) recognised that the council tax issue was at the bottom of his concerns. He had by and large not chosen to challenge rulings against him in the courts for fear of costs. He felt entitled to use FOIA to draw attention to what he considered were public authorities perverting the course of justice. FOIA provided fundamental rights however it was not a route to vent dissatisfaction as an alternative to the proper legal channels. He had pressed issues long after they had been adjudicated. He was unreasonably persistent. The issue of whether the council tax problem he experienced was a criminal matter was for the courts, not the police or ICO to resolve. He pursued personal grudges, made groundless accusations and used abusive language. He was intransigent and was unwilling to accept the legitimacy of any position but his own. He was causing a real burden on the police with disproportionate and unjustified requests. The requests were an improper use of FOIA, they were vexatious.
10. The Appellant argued that his correspondence was justified and proportionate given the Police's failure to address his concerns, the burden was not substantial given the Police resources and the brevity of responses, he implied that the Police preferred to deal with issues as complaints rather than investigate crimes properly because it involved less work, they had not investigated adequately, the language was justified by the injustice he had suffered. He had received apologies for the lack of contact and delay in handling his concerns from various bodies. He did not consider that the Police were complying with their duties under the Police Reform Act by updating him very frequently. In a subsequent pleading he argued that fundamentally the requests had a serious purpose.
11. The ICO resisted the appeal relying on the facts and reasoning of her decision notice. She based her analysis of the case on the decision of the Upper Tribunal in *Dransfield*. S.14 was intended to protect the resources of public

authorities from being squandered on disproportionate requests. The test for a vexatious request was whether it was manifestly unjustified, inappropriate or improper use of FOIA.

Consideration

12. In reviewing the sorry history of this saga over many years the simple truth is that the Appellant is aggrieved by the dispute with respect to council tax with NEL. He has through the course of his dealings imposed a significant burden on himself in terms of effort, stress and some expense. He experiences this as the injustice he has suffered, in reality he has inflicted it on himself by pursuing a dubious argument inappropriately and excessively. He has sought to induce Humberside Police to re-open issues which have already been resolved, usually through court proceedings. Although he argues that the requests are serious and have a real public value that assertion flies in the face of reality. They are pursuing a long-standing grievance by inappropriate means. In the course of this private argument he has wasted a considerable amount of police resource. He has been abusive; making totally unfounded allegations of the gravest kind against many people who have dealt with him – purely because they have not agreed with his analysis. He is closed to reasonable explanation. He has been personally abusive to recipients of his correspondence. These requests are burdensome, have no value and are abusive. They are the paradigm of vexatiousness. The ICO, in her analysis in her decision notice has correctly considered the history and characterised this as vexatious.

13. The appeal is without merit and is dismissed.

14. Our decision is unanimous

Judge Hughes

[Signed on original]

Date: 19 October 2017