

**First-tier Tribunal
(General Regulatory Chamber)
Information Rights**

Appeal Reference: EA/2017/0144

**Determined, by consent, on written evidence
and submissions**

Before

Judge

David Farrer Q.C.

Tribunal Members

Anne Chafer

and

Narendra Makanji

Between

Kevin Scranage (“KS”)

Appellant

and

The Information Commissioner (“The ICO”)

Respondent

References in the form "s.14" are to that numbered section of the Freedom of Information Act, 2000 ("FOIA")

The "DN" is the ICO's Decision Notice.

Decision and Reasons

The Tribunal finds that, insofar as the questions contained in KS's letter to Oldham Metropolitan Borough Council ("Oldham") dated 11th. December, 2016 constitute requests for "information", as defined in s.84, they were vexatious for the purposes of s.14.

It therefore dismisses the appeal. Oldham is not required to take any further step.

The Background

1. KS worked as a Trading Standards Officer, later a Senior Trading Standards Officer for Rochdale MBC ("Rochdale") for several years ending in April, 2009. He was good at the job. He is disabled and suffers from poor health. During the latter years of his service he states that he was bullied and intimidated by senior officers, Mr. G and Mrs. M, culminating in disciplinary proceedings, which they falsely orchestrated to procure his dismissal. KS was suffering from stress and depression at the time.
2. KS took action against Rochdale before the Employment Tribunal, evidently claiming that he was unfairly dismissed. He took up a similar post at Oldham. Mrs. M also moved from Rochdale to Oldham. The exact dates of these moves are unknown to the Tribunal. There is no evidence that any mistreatment of KS by Mrs. M occurred during her service at Oldham. It is not clear that she had any direct contact with him.

3. Relations between KS on the one hand and Mr. G and Mrs. M on the other seem to have further deteriorated. They accused him of harassment and he was convicted by Bury and Rochdale Magistrates, on 17th. December, 2014, of an offence under s.2 of the Protection from Harassment Act, 1997 in relation to them. He appealed successfully against that conviction to Manchester Crown Court in 2015.
4. He seeks to rely on the judgment delivered by H.H. Judge Lever to support his case as to the abuse he suffered at the hands of Mr. G and Mrs. M and the support given to them by Rochdale (in so far as such matters are relevant to this appeal). However, we are told (though no copy of the order was exhibited) that a Restraining Order was made, which, among other provisions forbade him from “publicizing or attempting to publicize by any means” the ruling given by H.H.Judge Lever. Yet that ruling was provided to the ICO by KS and was included in the agreed bundle for this appeal.
5. This appears to be a clear breach by KS of the Restraint Order made by Manchester Crown Court in 2015. For this Tribunal to have regard to that finding or to any part of HH Judge Lever’s judgment would involve us, not just in disregarding the order, but in rewarding KS for his disobedience to it. We therefore refuse to admit any part of HH Judge Lever’s judgment in evidence. I shall direct that the agreed bundle and a copy of this Decision be sent to HH Judge Lever so that he may consider, if he chooses, whether the Restraining Order has been breached and what consequences follow.
6. If KS wanted to rely on that ruling as part of his case, he should have applied to HH Judge Lever for a variation of the Restraint Order. He simply ignored it. We should add that this apparent disobedience to the order of the Court has no bearing on the issue of vexatiousness because it formed part of the presentation of his case to the ICO and the Tribunal, not his dealings with Oldham. We say “apparent” – because it is not for the Tribunal but for Manchester Crown Court, if it chooses, to determine whether KS’s disclosure of the ruling in this appeal was indeed a breach.

7. We are left with KS' allegations against Rochdale, which are set out repeatedly in the documents in the bundle.
8. The material requests for information, summarized in the next paragraph, were addressed to Oldham, not Rochdale. Whether or not Rochdale was guilty of misconduct towards KS is of little, if any, relevance to the question whether Oldham was justified in invoking s.14(1). The only apparent links between Rochdale and Oldham, in the context of this appeal, were that Rochdale and then Oldham employed both KS and Mrs.M. Employing Mrs. M, does not amount to condonation of any earlier misconduct, if such there was, even if there were evidence that, at the date of employing her, Oldham were aware of such allegations. Still less does it demonstrate a general policy of ignoring bullying and abuse.

The Requests

9. On 11th. December, 2016, KS wrote a long letter to Oldham. It began with a forceful denunciation of Rochdale and an accusation that his “senior manager “was abusing him, which he linked to media reports of abuse in the world of football and the alleged cover – up by Rochdale of sexual abuse (which was widely reported and led to a number of prosecutions). He further asserted that a wide range of very senior officers at Rochdale, including in – house legal advisers, as well as every Rochdale councilor and senior figures in Greater Manchester Police supported and condoned the abuse that he had suffered, as very briefly described in §1.
10. He then proceeded to pose a series of ten questions, of which the general effect was to ask whether Oldham had been guilty of similar misconduct to that which he attributed to Rochdale. They read as follows –
 - (i) What is your policy on abuse?
 - (ii) Do you actually follow it?
 - (iii)How many reports have you been notified of?
 - (iv)Have you ever ignored reports of abuse like Rochdale MBC?
 - (v) Have you ever attempted to cover abuse up like Rochdale MBC? If so, how many times?

- (vi) Have you ever assisted offender (sic) like Rochdale MBC in order to cover up abuse? If so, how many times?
- (vii) Have you ever lied to a court of law like Rochdale MBC in order to cover up abuse? If so, how many times?
- (viii) Have you ever withheld evidence from a court of law like Rochdale MBC in order to cover up abuse? If so, how many times?
- (ix) Do you work with Rochdale MBC in any collaborative ways?
- (x) Do you intend to change your working relationship with Rochdale MBC?

KS states that broadly similar requests were sent to other local authorities.

11. Oldham responded on 12th. January, 2017, refusing to provide any of the requested information and relying on s.14(1), namely on the assertion that these requests were vexatious. It maintained that position following an internal review.
12. In her DN of 4th. July, 2017, the ICO considered *Dransfield v ICO and Devon C.C. [2015] EWCA Civ 454* and upheld that refusal. KS appealed.
13. His Grounds of Appeal dwell largely on his criticisms of Rochdale, its officers and members. They include vague and wide – ranging references to different forms of misconduct in public life, which he purports to link together in a vast network of iniquity. He denies that the requests were vexatious. He asserts that they would assist in getting local councils to tackle “hate crime”, abuse, victimization and harassment, such as he suffered at Rochdale. He contends that, in employing Mrs.M, allegedly knowing of her conduct towards KS, Oldham condoned all the abuse that KS had suffered at Rochdale. He deserves answers to his questions on account of what he has suffered.

The Tribunal’s reasons for dismissing this appeal.

14. These requests were the latest in a series of requests of a very similar nature, going back to September, 2013. Some information had been provided by Oldham, some was refused in reliance on exemptions including those relating to data protection and other available sources (s.21). Section 14 was not invoked in response to these earlier, closely related requests.

This background has some significance in relation to an assessment of vexatiousness. KS had already demonstrated that he was likely to press ahead with repetitive and offensive questions, regardless of the responses that he obtained.

15. There is no evidence, nor any good reason to suspect that Oldham has conducted its duties as an employer in the way that KS imputes to Rochdale. Most of the requests are seemingly designed, not to obtain information but to make unfounded accusations in the form of questions (see (iv) – (x)). He cannot have expected to receive recorded information (see s.84) in response to them. The fact that similar requests were made to other local authorities in Lancashire reinforces that conclusion.
16. It may be relevant that Manchester Crown Court had prohibited FOIA requests to Rochdale so that KS had to vent his anger and frustration in other directions. Whether or not similar requests to Rochdale would have had a value to the public, there could be little or no public interest in the answers to such tendentious requests, framed in such offensive terms, made to Oldham, or any other council for that matter.
17. Looking at the matter in the round, we have no doubt at all that Oldham was entitled to rely on s.14(1) and to say that these requests were vexatious. They were almost entirely pointless, as regards eliciting useful information, had virtually no value to the public, were framed in insulting and potentially distressing terms and inevitably demanded time and resources quite disproportionate to their usefulness. Furthermore, they were the culmination of a quite sustained campaign along the same lines conducted over the preceding three years. KS was clearly not going to stop unless s.14 was brought into play.
18. For these reasons we dismiss this appeal.
19. This is a unanimous decision.

Signed David Farrer Q.C.

First – Tier Tribunal Judge

Date : 21st. December, 2017
Promulgated: 05 January 2018