



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

Appeal Reference: EA/2020/0091V

Before
Judge Stephen Cragg Q.C.

Tribunal Members

Ms Alison Lowton
Mr Paul Taylor

The case was heard through the CVP platform on 11 January 2021.

Between:-

Robert Wakeling

Appellant

-and-

The Information Commissioner

Respondent

Attendances:

For the Appellant: In person

For the Respondent: Mr Leo Davidson

DECISION AND REASONS

DECISION

1. The appeal is dismissed.

MODE OF HEARING

2. The proceedings were held via the Cloud Video Platform. All parties joined remotely. The Tribunal was satisfied that it was fair and just to conduct the hearing in this way.
3. The Tribunal considered an agreed open bundle of evidence comprising 801 pages and a number of written submissions from the parties.

PRELIMINARY MATTER

4. The Appellant had asked for a re-consideration of directions given by the Registrar on 22 December 2020. Essentially, the Appellant was concerned that the Registrar's directions, which allowed for a skeleton argument and schedules from the Commissioner to be filed on 7 January 2021 (amongst other directions), did not give enough time for the parties to attempt to agree issues or a chronology as per previous directions. Previous directions had required the Commissioner to serve final submissions by 28 December 2020, and for schedules to be served on 4 January 2021.
5. The Appellant was concerned that his engagement in the hearing was being 'denied' and that the 'integrity of the Tribunal is being put at risk'
6. The position was reviewed at the start of the hearing on 11 January 2021. In the end the Tribunal had all the documentation it needed to consider the appeal on that date, and the Appellant was able to submit a further document to us on the day in response to the Commissioner's submissions and schedules. This is a case where both parties have already, in any

event, set out their cases at some length at various points in the appeal process, and where oral submissions were also considered.

7. On that basis, it was not necessary to amend or vary the directions by the Registrar, and the Tribunal was able to proceed with the hearing

BACKGROUND

8. On 27 August 2018, the Appellant wrote to Teignbridge District Council (the Council) and requested information in the following terms:

“Please provide a copy of any evidence or records held, as relied upon by Managing Director Phil Shears,

1) to identify that complaints of fraud, intimidation, and failure to properly investigate, against officers [name redacted], [name redacted], [name redacted], [name redacted] have been considered in accordance with the directives of the Constitution.

2) how the basic human rights procedures have been considered where the complainant has been subject to threats and intimidation.”

9. In relation to the second part of the request, the Council confirmed that it did not hold information regarding human rights procedures.

10. After referring to a number of sections of the FOIA, once the case had been considered by the Commissioner following the Appellant’s complaint, the Council confirmed that it considered that the request was vexatious and was therefore relying on section 14(1) FOIA (Vexatious requests).

THE LAW

11. This would be a sensible place in the decision to set out the wording of s14 FOIA and some of the case law and guidance which now accompanies it.

12. Thus, section 14(1) FOIA states that “(1) Section 1(1) does not oblige a public authority to comply with a request for information if the request is vexatious”. Vexatiousness is not defined in section 14 FOIA, but it is immediately noticeable that it is the request that must be vexatious and not the person making the request.

13. Amongst other things, the Commissioner’s guidance on section 14 FOIA states that it is designed to protect public authorities by allowing them to refuse any requests which have the potential to cause a disproportionate or unjustified level of disruption, irritation or distress.

14. The approach to vexatiousness is based mainly around the case of *Information Commissioner vs Devon County Council & Dransfield* [2012] UKUT 440 (AAC). The emphasis on protecting public authorities’ resources from unreasonable requests was acknowledged by the Upper Tribunal in *Dransfield* when it defined the purpose of section 14 as follows:

‘Section 14...is concerned with the nature of the request and has the effect of disapplying the citizen’s right under Section 1(1)...The purpose of Section 14...must be to protect the resources (in the broadest sense of that word) of the public authority from being squandered on disproportionate use of FOIA...’ (paragraph10).

15. Also in *Dransfield*, the Upper Tribunal took the view that the ordinary dictionary definition of the word vexatious is only of limited use, because the question as to whether a request is vexatious ultimately depends upon the circumstances surrounding that request. The Tribunal placed particular emphasis on the issue of whether the request has adequate or proper justification. As the Upper Tribunal observed:

‘There is...no magic formula – all the circumstances need to be considered in reaching what is ultimately a value judgement as to whether the request in issue is vexatious in the sense of being a

disproportionate, manifestly unjustified, inappropriate or improper use of FOIA’.

16. *Dransfield* was also considered in the Court of Appeal (*Dransfield v Information Commissioner and Devon County Council* [2015] EWCA Civ 454) where Arden LJ observed at paragraph 68 that:-

“...the emphasis should be on an objective standard and that the starting point is that vexatiousness primarily involves making a request which has no reasonable foundation, that is, no reasonable foundation for thinking that the information sought would be of value to the requester or to the public or any section of the public... The decision maker should consider all the relevant circumstances in order to reach a balanced conclusion as to whether a request is vexatious.’

17. The recent Upper Tribunal case of *Cabinet Office v Information Commissioner v Ashton* [2018] UKUT 208 (AAC) made clear that s14(1) FOIA can apply purely on the basis of the burden placed on the public authority, even where there was a public interest in the request being addressed and where there was a ‘reasonable foundation’ for the request.

18. The case also confirmed the approach in *Dransfield* to the effect that the Tribunal should take a holistic approach, taking into account all the relevant factors, in order to reach a balanced conclusion as to whether a particular request is vexatious: see especially paragraph 27 of the UT judgment in *Ashton*.

19. Further, the Commissioner has identified a number of ‘indicators’ which may be useful in identifying vexatious requests. These are set out in her published guidance and, in short, they include:

- Abusive or aggressive language
- Burden on the authority – the guidance allows for public authorities to claim redaction as part of the burden
- Personal grudges

- Unreasonable persistence
- Unfounded accusations
- Intransigence
- Frequent or overlapping requests
- Deliberate intention to cause annoyance

DECISION NOTICE

20. The decision notice in this case is dated 30 January 2020. The Commissioner sets out the Council's case as follows:-

23. ...the council explained that the complainant's dissatisfaction stems from the fact that he was unhappy because a planning application he had submitted previously, was unsuccessful. The council also explained that although it has made many attempts to help him over the years, he continues to remain dissatisfied. His information requests, complaints and allegations have imposed an extremely significant burden on the council over a long period of time.

24. In addition, the council explained to the Commissioner that in 2008-2009, it had dealt with 10 requests for information from the complainant regarding planning and policy issues. It had also dealt with requests for the result of investigations it had carried out, including being asked for evidence held by the council showing that officers had been investigated. The council also confirmed that it had dealt with requests relating to his original planning application.

25. Furthermore, the council explained that in January 2019 the complainant was advised by its Solicitor and Monitoring Officer (responsible for council legality) that it would not respond to any further correspondence it receives in connection with such matters. Additionally, the council explained that there were over 200 items of correspondence involved in the many complaints over the years and that it had even had to apply a special exception to its data retention policy in order to retain evidence of the recurrent nature of enquiries to support decisions such as the one taken in the present case.

26. The council explained that the complainant has a history of making allegations of fraud, obfuscation, intimidation, blackmail,

corruption etc. against staff. Additionally, the council explained that the complainant resurrects similar complaints periodically, which include personal accusations and unfounded allegations against officers.

27. In addition, the council explained that since 2006, the complainant had made allegations of fraud, maladministration, misrepresentations, bias prejudice reporting, calculated deception and unlawful practice, to various third parties including, the Legal Services Ombudsman/Solicitors Regulation Authority, the Police and the Crown Prosecution Service. The council provided the Commissioner with a table of correspondence from the complainant, including a description of each item of correspondence. The Commissioner notes that some of the complaints made to third parties are about some of the named individuals who are the subject of the present request. The council confirmed that none of these complaints had been upheld.

28. The council also provided the Commissioner with examples of defamatory information submitted by the complainant about council officers. The Commissioner notes that the complainant has accused members of staff, amongst other things, of using threatening behaviour and behaviour which amounted to blackmail, in their dealings with him. She also notes that in correspondence to the council, the complainant asks a question about whether monies received from the council from central government on pilot schemes for affordable housing had all been "squandered" on officer handouts and payoffs.

29. In addition, the Commissioner notes that the complainant has accused named members of staff of fraud and cover ups and also talked about being denied his basic human rights. The council also provided the Commissioner with a complaint made by the complainant to it in January 2019, in which he names all of the individuals who are the subject of his present request. In that complaint, the complainant made the following accusations: Threat and intimidation amounting to blackmail; unsubstantiated claims of third party investigations; denial of incontrovertible evidence; determined efforts to frustrate the complaint and failure to conform with the adopted Constitution.

30. The Commissioner also notes that in a letter to the council from the complainant, he used the following heading "Bringing the Planning System into Disrepute Cronyism, Prejudice, Pre-Determination and Misuse of Public Funds".

21. The Commissioner recorded the Appellant's view that the information sought should be in the public domain. She recorded his point that the

Council had failed to provide the information within the specified timescales and that he had provided detailed information for the Council on review so that the Council could be clear about what was requested. The Commissioner said that viewed in isolation, the request in this case 'may not seem to impose an unreasonable burden and is arguably not without a serious purpose' (paragraph 40). However, her conclusion is as follows:-

43. The Commissioner notes the council's explanation (and examples provided to her), regarding previous allegations made by the complainant against council staff; including allegations of using threatening behaviour and behaviour which amounted to blackmail.

44. The Commissioner also notes the council's explanation that in the past, the complainant has complained to third parties about staff, including the ones named in this present request and that none of his complaints have been upheld.

45. The complainant is clearly dissatisfied with the council; the Commissioner considers that the present request is a continuation of that dissatisfaction.

46. Taking into account the background of the case, the Commissioner considers that the request appears to be a means of furthering his own disagreement with the council, which can be considered an inappropriate use of information rights under the FOIA.

22. On that basis the Commissioner decided that the Council was correct to find the request vexatious.

APPEAL AND SUBSEQUENT DEVELOPEMENTS

23. The Appellant's appeal is dated 26 February 2020 and it makes it clear that he disagrees with the Commissioner's response. We have set out the contents of the appeal more or less in full as the Commissioner, in fact, recorded little about the Appellant's case in the decision notice. The Appellant says as follows:-

Officers make claim of investigation and make reference to documents and yet are never able to provide evidence to substantiate their claims. There is also an established pattern where Council Staff will delay an FOI requests for months causing extensive paperwork which the Council will then use to cite a claim of vexatious.

I respond to the numbered points of the decision notice

26. The words of fraud, obfuscation, intimidation and corruption are those contained in a Police Investigation and subsequent findings of the CPS who identified that Council Staff were deliberately withholding information, altering official records, and deliberately misconstruing adopted constitution policies for the purpose of obstruction. Despite requests of the CPS for the Police to submit further known evidence, the Police did not have the resources and the case stalled. In 2014, I received an email from the former Monitoring Officer in which I was intimidated for pursuing my right to requested information and threatened if I was to continue to pursue my rights, which amounts to blackmail. The records can be made available to the Upper Tribunal if required.

27. Council Staff have been peddling misinformation that my complaint has been considered by several bodies and found to be without merit. There is no truth in such statements and despite my requests, and previous instructions of the ICO to the Council, the Council is not able to provide any evidence to support the claims. For example, Council Staff claim that the Legal Services Ombudsman did not uphold the complaint whereas the LGS declined to investigate. Other examples of misrepresentation include advising my MP that the Local Government Ombudsman had found no evidence of wrongdoing when in fact the LGO declined to investigate in deference to the Planning Inspectorate. To now inform the ICO that the Police and CPS could find no evidence of wrongdoing a blatant attempt to pervert the truth. To quote the CPS prosecutor "I have now carefully reviewed the papers in this case and have considered a number of offences that may be pertinent. For example, these have been fraud/conspiracy to defraud and misfeasance in public office". and later "I have called for the return of the file papers". Prior to the Police Investigation, the Council Senior Auditor confirmed (in writing) receipt of evidence to substantiate wrongdoing/obstruction and promised that I would receive a written report of the findings, as directed by constitution. The report has never been produced and yet Council

Staff make reference to the investigation but refuse to provide evidence of the same.

28. The claim of defamatory remarks is unfair and biased. In September 2018 the Council MD apologised on 4 occasions in his letter for disrespectful remarks by a senior officer. In response to my requests for information, I have been subjected to threat and intimidation whilst the Council have been portraying to third parties that I am an untrustworthy character, despite my claims being fully evidenced.

46. To refer to a refused planning application in 2006 is another example of unfairness to shift the focus away from the Council's own (professionally recorded) failings. I am concerned at the events surrounding the timing of the publishing of the report and how the Council Monitoring Officer was able to report confidently to my ward member about the findings of the report before it was published. I have substantive evidence to show that the Monitoring Officer has not acknowledged a complaint against a member 29th November 2019, and has subsequently fabricated a story to prevent disclosure and claim vexatious.

I am also concerned that on each occasion that I spoke with the senior case officer I was informed that a decision would be forthcoming in the next 2 weeks, as was the case with my last telephone conversation on 28th January 12:10 when I was informed that the investigation was complete ready to be sent off for checking which would take 1 - 2 weeks before despatch. I submitted a complaint to the Council MD as attached on 29th January, and the signed decision notice was received at 08:46am on 30th January.

24. The Appellant set out what he wanted to achieve from the appeal as follows:-

I wish to view the information claimed to be held by the Council, regarding my complaint.

I wish to view the information which the Council claim to hold, that determines my complaint to be without merit or substance.

I wish to submit evidence to show that the Council has purposely withheld the information and that there is a history of the Council acting in such a manner, including a recent judgement by the Local Government Ombudsman who has also found against the Council where the Council claimed a complainant was vexatious.

The Council continually breaching the FOI rules is a drain on the taxpayer and brings Local Government into disrepute.

25. The Council's response to the Appeal was to apply to strike it out. The Appellant had prepared a document opposing the strike out application which indicated how a number of bodies and agencies had addressed his complaints (and explained how for each no concrete action had been taken). He also set out 'information not disclosed to the Tribunal'. This included an undated quote from Charles George QC that, in consideration of the Appellant's complaint 'So far as what had taken place, CG expressed surprise that the Local Government Ombudsman had been unprepared to entertain a complaint, since his provisional view was that there had been at least ineptitude in the handling of the two planning applications, whereby Mr and Mrs Wakeling had suffered injustice'.

26. The Appellant also said that Foot Anstey Solicitors in relation to determination of the planning application had commented that 'The Full Council's decision is procedurally improper'. There is reference to criticisms of the Council's claim to have taken photographs of the site in question.

27. The Appellant quoted from a report from John Watts of Olurun Planning Partnership to the effect that the Appellant's planning application in 2006 had not received a fair hearing, and to a report from a planning inspector's report identifying the Council's failure to consult and failure to follow lawful procedure, in development of the LDF Local Plan. There are other quotes reflecting criticism of the Council's planning procedures.

28. The Registrar struck out his appeal on 13 May 2020, but the Appellant asked for the application to be reconsidered. He summarised his list of 'independent persons' and their comments as follows:-

- Charles George QC - 'at least ineptitude in the handling of the two planning applications whereby Mr and Mrs Wakeling had suffered injustice'.
- Foot Anstey Solicitors - 'The Full Council decision is procedurally improper'
- Olorun Planning - 'there have been failings with the decision making process' 'coupled with deficiencies in procedure including immaterial or incorrectly reported information, have resulted in inadequacies and inconsistencies with the decision making process'.
- Richard Younger-Ross MP to Communities Secretary John Denham MP - 'I've asked them to look at it potentially call the decision in. What Mr Wakeling is alleging concerns not just the planning process, but improper use of local government'.
- Cllr Jeremy Christophers, Leader of the Council 2011-2019 - 'I feel that to judge an application on policies that have not been adopted damages the reputation of the council, and they need to be investigated by an independent body.
- Cllr Stuart Barker, Group Leader District and County Cllr - There needs to be an independent body where members of the public can take a complaint which will be investigated thoroughly and independently, and which will look at the wider issues that Mr Wakeling has complaints about'.

29. On 25 June 2020, Judge Macmillan decided to set aside the decision to strike out and commented that:-

7. In his request for the Registrar's Decision to be considered afresh, the Appellant has provided extracted comments that he describes as the 'judgements of independent persons in the same complaint'. The extracts, which are provided without context, are critical of the public authority's investigation of his complaints.

8. Having considered the extracts, and the circumstances of this case, I have concluded that it is not possible to describe the Appellant's grounds of appeal as 'fanciful' at this stage. The Registrar's Decision is therefore set aside.

THE HEARING

30. At the hearing the Appellant represented himself and the Commissioner was represented by Mr Davidson.
31. The Tribunal was able to consider a number of documents in which the Appellant had set out his arguments. These included the appeal documents, the documents submitted for the strike out application and reconsideration, a document headed 'Disputed Facts' submitted on 4 January 2021, a chronology, and a final submission dated 23 December 2020.
32. The final submission highlights the events of 2006 when the Appellant's planning application was considered but also argues that predetermination of planning applications has been ongoing. He notes the absence of a promised investigation report. The Council is accused of withholding evidence from the Tribunal. There is a long section alleging collusion and bias between planning and other officials both inside and outside the Council. The conclusion to the submission quotes Charles George QC (see both above and below) and then says that 'A host of independent professional witnesses including the CPS, the Police, a professional forensic planning investigation and surveyors testify to the extent of conspiracy to defraud that is evidenced'. About the Commissioner's case he says:-

The Respondent's case is a trail of lies and deceit so created to prevent the exposure of senior public officials in high positions of trust, who with undeclared pecuniary and personal interests, have conspired to defraud a victim of his right to a fair hearing. The evidence is indisputable as is the Respondent's wilful misrepresentation. Given the above, there can be no doubt of wrong-doing and it remains to be seen in the Respondents final submissions the intent to pervert the course of justice.

33. There were also hundreds of pages of supporting documents provided by the Appellant and included in the bundle.
34. The Appellant also asked us to consider further documents submitted on the day of the hearing which responded to the Commissioner's skeleton argument of 7 January 2021. We agreed to do so, but the main document is headed up with reference to the certification process, which is the subject of a separate judgment.
35. We do note however that the document refers to the Commissioner's conduct during the appeal and in particular, it seems, to the practice of the Commissioner of obtaining information from a public authority during the investigation of a complaint and production of a decision notice without sharing the information obtained with the Appellant or seeking comments before the finalisation of the decision notice.
36. We note the Appellant's concerns in this respect. However, so far as this appeal is concerned all the relevant information and correspondence is in the appeal bundle and the Tribunal's role is to consider the case afresh and in doing so we can take into account all the Appellant's submissions in relation to that material.
37. In the hearing the Appellant made short oral submissions in which he reiterated some of the points he had made in writing, including further criticism of the Council's planning policy and the lack of an investigation report to deal with the Appellant's complaints, which he believes has been withheld. He denied that his request was vexatious or that there was harassment of Council staff.
38. The Commissioner relied on a number of factors to support the finding of vexatiousness of the request, including the burden on the Council, the motive of the Appellant, the seriousness of the request, and the extent to

which there was evidence of harassment to the Council's staff. Mr Davidson for the Commissioner submitted that the underlying motive for the Appellant was how the Council had dealt with his complaints, and he pointed out that this Tribunal cannot resolve any of the planning issues that arise.

39. He suggested that this may be a case of 'vexatiousness by drift' as referred to by the UT in paragraph 37 of *Dransfield* whereby the purpose of the present request has become far removed from the original purpose of the Appellant.

40. Mr Davidson also referred to the repeated allegations made by the Appellant of bad faith, blackmail, obfuscation, delay, and corruption by Council staff and members, and pointed out the detrimental effect and distress of such a barrage of allegations.

DISCUSSION

41. We note that Judge Macmillan took account of the list of extracted comments that the Appellant describes as the 'judgements of independent persons' when re-instating the appeal. We have been able to have a closer look at those 'judgements' (all of which are over a decade old) as they appear in the bundle and can say this about them.

42. In relation to **Charles George QC** there is a note of an advice in conference dated 13 November 2008, where it appears that the Appellant was seeking advice about his planning application. Materially this reads as follows:-

4. So far as what had taken place, CG expressed surprise that the Local Government Ombudsman had been unprepared to entertain a complaint, since his provisional view was that there had been at least ineptitude in the handling of the two planning applications, whereby Mr and Mrs Wakeling had suffered injustice.. On the other hand he explained that it was now too late to have any real chance of securing the Ombudsman's intervention; and that, assuming that

Mr Wakeling's claims of bias could be made out, it was now far too late for any judicial review proceedings. CG also did not accept the validity of the criticisms made by Mr Wakeling of the Inspector's decision letter rejecting the appeal, though it was a pity that the appeal had been dealt with by written representations rather than by a public inquiry.

5. CG explained why he considered that a civil action for the tort of misfeasance in a public office would not succeed.

6. CG ...also emphasised that he did not accept that allegations of fraud or dishonesty could be established.

43. In relation to **Foot Anstey** (a firm of solicitors) there is an email dated 21 June 2006 which includes the heading 'The Full Council's decision is procedurally improper' and then the email states 'putting other procedures aside for a moment, the application was determined before the expiration of the consultation period for the advert for the departure from the development plan' and then there is advice about remedies such as the ombudsman and judicial review.

44. There is a report from **Olurun Planning** dated 10 April 2008 which includes the following:-

From the documents and the events that have been recorded by Mr R C Wakeling, one could deduce that in the absence of an up-to-date Local Plan, too much reliance has been placed upon the out-of-date Adopted Plan, the Initial Deposit Version of the Local Plan First Review, together with premature application of an unacceptable incomplete draft LDF, which in turn has led to inconsistency, confusion and mistrust by applicants, with the planning decision-making process; and less than complete advice from officers to members.

...

Overall, it could be concluded that there have been failings with the planning decision-making process due to the absence of an up-to-date local plan. Which, coupled with deficiencies in procedure including immaterial or incorrectly reported information, have resulted in inadequacies and inconsistencies with the decision-

making process (examples of which are recorded by Mr Wakeling), The precision of advice given to members by officers is a substantial element in ensuring that the decision making process is transparent.

45. The quote from **Richard Younger-Ross MP** comes from a newspaper report dated 26 June 2009. The quotes from **Cllr Jeremy Christophers** and **Cllr Stuart Barker** both come from another newspaper report (undated) but appears to be from 2009 or 2010 (from other information on the page that has been photocopied for the bundle).

46. We recognise the Appellant's genuine belief that there has been a history of maladministration (at least) by the Council in relation to his dealings with it, and that this continued for some years. The extracts set out above certainly show that concerns were expressed from a number of different quarters over a period of time about the Council's planning process.

47. We also note the Appellant's case that there is no reason why the Council could not disclose the information that he has requested on this occasion and that it would not be overburdensome to do so. Indeed the Commissioner noted in the decision notice that the request, when viewed in isolation, would not cause undue burden and was not without serious purpose.

48. However, as set out above, it is necessary, to comply with the case law on s14 FOIA, to take a wider view of the request and to consider the situation holistically. When that is done the current request appears to us to be part of an ongoing effort by the Appellant, going back well over a decade, to make the Council accountable for perceived past and ongoing misdemeanours and malpractice. The Council has provided a long list of contacts and complaints made by the Appellant from 2006-2019 (albeit with a long gap between 2009 and 2014).

49. That effort has involved a very large number of items of correspondence between the Appellant and the Council. The Appellant has also made several information requests under FOIA/EIR and subject access requests, under the Data Protection Act.

50. What started off as a dispute about planning procedures in 2006 seems to have ballooned into wide-ranging complaints about the Council and Council officers, using words such as fraud, obfuscation, intimidation, corruption and conspiracy.

51. The Appellant has also made complaints over the years to organisations such as the police, the Ombudsman and others about the Council and Council officers. None of these bodies have decided to deal with the complaints in a way which has produced the results that the Appellant has sought. The list of those agencies with whom the Appellant has been in touch about his complaints includes the following:-

- (a) The Police/CPS;
- (b) The Local Government Ombudsman;
- (c) The Solicitors Regulation Authority;
- (d) The Bar Standards Authority;
- (e) The Planning Inspectorate;
- (f) The local MP;
- (g) Standards Board for England;
- (h) The Council's external auditors, PricewaterhouseCoopers.

52. The Commissioner has portrayed the situation as a case of vexatiousness by drift. This is a concept explained by the UT in *Dransfield* (paragraph 37) suggesting that a requester once had a serious purpose for making requests but that has been lost over time as the area of dispute moves on from the original issues.

53. Thus, the current request seeks information on records about complaints of fraud, intimidation, and failure to properly investigate, against named officers, and that this is a distance from the subject matter of the original dispute.
54. We agree that there is an element of 'drift' in this case. We also think that the case can be portrayed as one where there has been unreasonable persistence by the Appellant where FOIA is being used to pursue the issues he is concerned about, but where it is clear that the other grievance procedures used by the Appellant have not produced the results he would have liked.
55. In this respect, we note that the statements of concern relied upon by the Appellant and explored above are all over ten years old. Although some of these explored possible remedies for the issues raised by the Appellant, in fact none of those remedies have borne fruit.
56. We should also point again to the language used by the Appellant in communications with the Council and the Commissioner and in his submissions for this case. This includes words like fraud, conspiracy, corruption, intimidation, blackmail. However, although concern was expressed by a number of people about Council procedures, there is nothing in our papers which is evidence of any of these serious allegations, and none of the procedures utilised by the Appellant has led to any such findings.
57. In our view the continued use of such allegations amounts to unreasonable accusations and a form of harassment of Council staff which must be unpleasant for individuals and burdensome for the Council to deal with.
58. Therefore, considering the matter holistically, it is our view that the

current request is part of a course of action by the Appellant that (a) is unduly persistent, (b) has now ceased to have a serious purpose, (c) contains serious unfounded allegations, and (d) is unduly burdensome for the Council, and therefore has been correctly described by the Commissioner as vexatious for the purposes of s14 FOIA.

CONCLUSION

59. On that basis, we dismiss this appeal.

Stephen Cragg QC

Judge of the First-tier Tribunal

Date of Decision: 04 February 2021

Date Promulgated: 08 February 2021