



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

**Appeal Reference: FT/EA/2024/0368
Neutral Citation Number: [2025] UKFTT 276 (GRC)**

**Decided without a hearing on 20 February 2025
Decision given on date: 5 March 2025**

Before

**JUDGE ANTHONY SNELSON
TRIBUNAL MEMBER MARION SAUNDERS
TRIBUNAL MEMBER PAUL TAYLOR**

Between

PETER MARSHALL

Appellant

and

THE INFORMATION COMMISSIONER

First Respondent

and

THE LONDON AMBULANCE SERVICE NHS TRUST

Second Respondent

DECISION

On considering the written representations of the parties, the Tribunal unanimously determines that the appeal is dismissed.

REASONS

Introduction

1. In these reasons we will refer to the Appellant, Mr Peter Marshall, by name.

2. On 27 April 2015 Mr Marshall's father, a London resident aged 86, suffered a cardiac arrest at home. An ambulance was called at once but there was a short delay in locating his address ('the property'). He was treated at the scene and taken to a nearby hospital, where he was admitted. Very sadly, he died, seemingly quite soon afterwards.¹ We refer to him below as 'the patient'.
3. Mr Marshall feels that there were culpable failures or flaws in the mapping information held by the Second Respondent ('the Trust'), which caused the difficulty in finding the property. This perception has caused him to pursue a correspondence with the Trust since 2016, which has taken many forms, including requests for information under the Freedom of Information Act 2000 ('FOIA').
4. The Trust has consistently responded fully and with courtesy to Mr Marshall's requests for information and other correspondence. However, by a letter dated 22 May 2023, it advised him that any further request might be met with the answer that it was vexatious and would not be responded to.
5. In this appeal, Mr Marshall, challenges the decision of the First Respondent ('the Commissioner') that his request for information made under FOIA on 21 March 2024 was vexatious and accordingly the Second Respondent, the London Ambulance NHS Trust ('the Trust'), had not been under an obligation to respond to it.
6. The appeal was listed before us on 20 February 2025 for consideration on the papers, in accordance with Mr Marshall's wishes, to which the Commissioner and the Trust had consented. We were satisfied that it was just and proportionate to determine the matter without a hearing.
7. We had before us a bundle of documents of 220 pages.
8. Having considered the matter with care, we arrived at the unanimous conclusion embodied in the Decision above.

Procedural history

9. On 21 March 2024 Mr Marshall wrote to the Trust requesting information in the following terms:
 - (1) **The date upon which the Trust first became aware of the difficulties encountered by staff when attending [the relevant assignment];**
 - (2) **The date when the Trust had first sight of the relevant Patient Report Form (PRF);**
 - (3) **The date upon which the PRF was provided to PHSO;**

¹ The Tribunal does not seem to have been given the date of death. Mr Marshall attributes his father's death to the delayed arrival of the ambulance (see the reply to the Commissioner's response, para 1). The Tribunal has been shown no independent evidence substantiating that causal link.

- (4) The date upon which the Trust provided all (or any) of the following specific information to PHSO:
 - (a) The route to access [redacted] was not obvious or signposted. Neither was it easy to deduce from neighbouring property house numbering or signage on or around the buildings.
 - (b) The attending Trust personnel had difficulty locating the access to the address once they arrived. This was due to the complexity of the location.
 - (5) If none of the specified information set out at (a) and/or (b) above was provided to PHSO, please say so;
 - (6) Provide all relevant documentation in support of answers to each of the above questions.
10. The Trust responded on 2 April 2024, citing FOIA, s14 and refusing the request on the ground that it was vexatious.
11. Mr Marshall reacted the same day, proposing that the Trust's solicitors be authorised to release the information requested. The Trust did not respond.
12. Also on 2 April 2024 Mr Marshall complained to the Commissioner about the way in which the Trust had dealt with his request. An investigation followed.
13. By a Decision Notice dated 5 September 2024 the Commissioner determined that the request was vexatious and the Trust had been entitled to refuse it on that ground.
14. By his notice of appeal dated 11 September 2024 Mr Marshall challenged the Commissioner's determination.
15. The Commissioner served a response on 22 November 2024 relying very largely on the grounds set out in the Decision Notice.
16. By a reply dated 3 December 2024 Mr Marshall joined issue with the Commissioner on his response to the appeal.
17. Under a case management order dated 7 January 2025 the Trust was joined as Second Respondent. It appears, however, that no direction was given for delivery of its response and that it has played no part in the proceedings.
18. The only materials before us not included in the bundle comprised Mr Marshall's further submissions dated 18 February 2025.

The law

19. By FOIA, s14(1), a public authority is excused from complying with a request for information in accordance with s1(1) if the request is 'vexatious'. In *Dransfield v Information Commissioner and Devon County Council* [2012] UKUT 440 (AAC), the Upper Tribunal ('UT') (Judge Nicholas Wikeley), at para 27, expressed agreement with an earlier first-instance decision that –

... "vexatious", connotes manifestly unjustified, inappropriate or improper use of a formal procedure.

The judge continued (para 28):

Such misuse of the FOIA procedure may be evidenced in a number of different ways. It may be helpful to consider the question of whether a request is truly vexatious by considering four broad issues or themes - (1) the burden (on the public authority and its staff); (2) the motive (of the requester); (3) the value or serious purpose (of the request) and (4) any harassment or distress (of and to staff). However, these four considerations ... are not intended to be exhaustive, nor are they meant to create an alternative formulaic check-list.

20. *Dransfield* and a conjoined case were further appealed to the Court of Appeal. Giving the only substantial judgment (reported at [2015] 1 WLR 5316), Arden LJ (as she then was) did not question the UT's guidance, but added these remarks (para 68):

In my judgment, the UT was right not to attempt to provide any comprehensive or exhaustive definition. It would be better to allow the meaning of the phrase to be winnowed out in cases that arise. However, for my own part, in the context of FOIA, I consider 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. Parliament has chosen a strong word which therefore means that the hurdle of satisfying it is a high one, and this is consistent with the constitutional nature of the right. The decision-maker should consider all the relevant circumstances in order to reach a balanced conclusion as to whether a request is vexatious.

21. The appeal is brought pursuant to FOIA, s57. The Tribunal's powers in determining the appeal are delineated in s58 as follows:

(1) If on an appeal under section 57 the Tribunal consider -

- (a) that the notice against which the appeal is brought is not in accordance with the law; or
- (b) to the extent that the notice involved an exercise of discretion by the Commissioner, that he ought to have exercised his discretion differently,

the Tribunal shall allow the appeal or substitute such other notice as could have been served by the Commissioner, and in any other case the Tribunal shall dismiss the appeal.

(2) On such an appeal, the Tribunal may review any finding of fact on which the notice in question was based.

Some Contextual Facts

22. The Tribunal's directions designed to extract from the parties a clear narrative of key facts have not been fulfilled. The result is that, with a limited time

allocation, we have had to do our best to mine information from the documents in the bundle. This is not how things could be.

23. According to the patient report forms ('PRFs') completed at the time by the ambulance crew (which have been disclosed to Mr Marshall) it appears that the main events of 27 April 2015 are as follows. The ambulance was called at 23:12 and dispatched at 23:15. It was 'on scene' at 23:23 and the crew reached the property at or around 23:30. (Accordingly, it seems that the time lost in seeking to find the address was about seven minutes.) The patient was treated and stabilised before being conveyed to hospital, arriving at 00:42. The clinical handover took place at 00:50 and the patient handover five or 10 minutes after that.
24. The PRFs contain no information concerning the difficulty in finding the property beyond noting that there had been a difficulty, that the address had been found on a 'second drive around' and that the time interval between reaching the 'scene' and arriving at the property was, as we have recorded, about seven minutes. The PRFs said nothing at all about the cause of the difficulty in finding the address.
25. Very sadly, the patient died. We do not know the date of his death but we infer that it occurred not long after he was admitted to hospital. The property was, or at all events now is, owned by Mr Marshall and we proceed on the footing that it is important to him to know that an ambulance dispatched to his address in the future could be expected to find it without delay.
26. As we have mentioned, the events which (understandably) sparked Mr Marshall's concern occurred nearly 10 years ago. Has been pursuing correspondence with, and complaints (in various forms)² to, the Trust since 2016. By far the greater part of these communications has been devoted to exploring the original mapping flaw or error and steps taken to improve the Trust's records so as to avoid the risk of any difficulty in finding the property in future.
27. It would not be proportionate to attempt to summarise the correspondence. The following details must suffice.
 - (1) On 21 December 2016, in response to a query from Mr Marshall, the Trust advised him that it would be happy to update the 999 database to add specific access instructions, if he so wished. It seems that Mr Marshall did not reply.
 - (2) On 10 September 2019 Mr Marshall wrote to ask when the 999 database had been amended to include information correctly locating the property.
 - (3) Following a great deal more correspondence between September and December 2019 the Trust clarified that specific access instructions (which

² The complaints have included a formal complaint under the Trust's complaints procedure, which was rejected as being brought out of time.

- it cited) had been added to the system. These instructions adopted Mr Marshall's own description of precisely where the property was located.
- (4) In and after 2021 Mr Marshall pursued a rash of requests for information and other correspondence, apparently largely concerning technical subjects to do with maps disclosed by the Trust pursuant to a FOIA request (or more than one).
 - (5) On 18 March 2022 Mr Marshall submitted a request to the Trust under FOIA concerning maps which it had disclosed in August 2021. The request asked (among other things) whether any ambulance staff who attended the property on 27 April 2015 had reported difficulties in access. In the initial response, the Trust disclosed no information but in a revised response of 22 May 2023 it said this:

The Trust did not make a formal report in the terms you describe. Whilst we appreciate it is not a report made by Trust personnel, for the sake of completeness we attach a copy of our Patient Experiences Department Record Form dated 7 September which sets out the details of your complaint and states that there were access issues when the emergency crew were attending on 27 April 2015. This element of the request is exempt from disclosure under FOIA, s40(1) as it largely relates to you. ...

In our view, however, you are entitled to receive a copy of the form under the subject access provisions ... as it constitutes your personal data.

The form was therefore disclosed to Mr Marshall. It does not appear to be included in the bundle. No doubt it contained information all or much of which had come from Mr Marshall or other members of the patient's family. The response of 22 May 2023 also included a detailed summary of the history of his requests under FOIA of 20 February 2021 and 18 August 2022 and numerous other interactions from 2016 to date, adding this:

...we consider that we may not be required to respond to further requests from you on this topic. This is because of the burden created by these ongoing requests, coupled with the very specific nature of the requests for information that you are making. The nature of the request you are making is for very specific (and tangential) information arising from a particular incident and changes to our technical systems, and border on requests for explanations ... rather than requests for recorded information ...

We are unclear that responding to further FOI request you make is going to give you substantially different or further information, or help to resolve your understandable upset about the experience you received from London Ambulance Service. We believe that we have fully considered and addressed the issues raised by your underlying complaint about the Trust's services (and subsequent PHSO complaint and correspondence with the PHSO ...

- (6) The PRFs were disclosed to Mr Marshall on 5 June 2023.
28. Mr Marshall's requests and complaints have generated a remarkable volume of correspondence. A summary document in the bundle lists 47 communications between 22 February 2021 and 8 September 2021 arising out of his 2021 FOIA

request and 17 communications between 18 August 2022 and 15 December 2022 arising out of his 2022 FOIA request.

29. In or about 2017 Mr Marshall made a complaint to the Parliamentary and Health Service Ombudsman ('PHSO'). An investigation followed resulting in the complaint being rejected. We are not told the scope or terms of reference of the PHSO enquiry but it seems safe to assume that it was largely directed to the subject of deficiencies in the Trust's mapping information and the resulting initial difficulty of finding the property on 27 April 2015.
30. We understand that Mr Marshall was dissatisfied with the outcome of the PHSO investigation. We are not told of any legal challenge raised by him. It is clear that if there was any such challenge, it failed. Nor are we told of any question directed by him to the PHSO as to what information was made available to it (by the Trust or anyone else) for the purposes of its investigation.
31. Mr Marshall has pursued in correspondence a claim for monetary compensation from the Trust. This has been politely but firmly declined. We are not sure that any legal basis for such a claim has ever been formulated. The Trust's response has been put on the basis that (apart from anything else) there is no reason to think that Mr Marshall has suffered any loss as a consequence of the things about which he complains. We are not sure that he has ever put forward an answer to that simple defence. At all events, he has been mindful of his legal rights and has threatened to exercise them, but no litigation has eventuated.
32. The request now before us was submitted almost 9 years after the unfortunate events which prompted it. As we read his case, Mr Marshall's main residual concern is about whether the PRFs were shown to the PHSO. The PRFs were disclosed to Mr Marshall, as we have said, on 5 June 2023. We have seen no explanation as to why it took him some nine months to raise the current request.
33. Despite the Trust's reliance on FOIA, s14, its Director of Corporate Affairs has offered to meet Mr Marshall to discuss his ongoing concerns. It seems that the offer has not been accepted.

Submissions

34. In bare summary, Mr Marshall contends that the Trust's resort to relying on FOIA, s14 is a device to enable it to suppress information the release of which would be damaging to its interests and reputation. He denies that the request is vexatious and blames the long history of requests and complaints on evasiveness on the part of the Trust. Further, and without making any concession in respect of other elements of the request, he argues that the questions directed to the content of the PRFs and whether, and if so when, they were disclosed to the PHSO, are clearly unobjectionable given that they were not released to him until 5 June 2023.

35. In resisting the appeal, the Commissioner relies on the extended history of requests and other communications and the burden which it has placed on the Trust. He submits that there is very little interest (including public interest) in the subject matter of the request and that the limited value of the information sought strengthens the argument that the request is vexatious. Further, submits the Commissioner, there is nothing to suggest that answering the request would allay Mr Marshall's dissatisfaction and bring the matter to an end.

Analysis and conclusions

36. In our view this appeal is without merit and the Commissioner's decision was plainly right, for the following reasons. First, in view of the number of requests and the range of information sought, we are satisfied that answering them would place an unreasonable burden upon the Trust. The requests may be quite narrow in themselves, but they need to be seen in the context of the most unusual history.
37. Second, the burden upon the Trust becomes all the more obviously unreasonable when account is taken of the straightforward issues which first caused Mr Marshall, entirely reasonably, to press for information. Quite simply, there was a problem with the mapping information held by the Trust and Mr Marshall understandably wished to know if the defect had been resolved and the Trust's records had been corrected.
38. Third, those straightforward issues had been dealt with at the latest by 2019 (and the Trust would say that the matter could have been closed much earlier but for a failure by Mr Marshall to respond to its inquiry about the information he wished to have recorded on the system). The burden on the Trust is all the more unreasonable for the fact of the requests and complaints having continued for years after the central concerns had been addressed.
39. Fifth, the requests under consideration in this appeal, viewed in the context of the background history, illustrate the unhealthy tendency of many presenters of vexatious requests towards what the UT in *Dransfield* called 'vexatiousness by drift', which involves broadening the areas of inquiry from the original substance to matters of (at best) tangential relevance. Mr Marshall's focus has shifted from the original issues to satellite concerns about how his earlier requests and complaints were dealt with. Such 'drift' offers almost limitless possibilities for future requests and complaints.
40. Sixth, there is little or no value in the request. As we have noted, Mr Marshall's main interest is said to be in the PRFs and whether (and if so when) they were shown to the PHSO. The problem with that is that the PRFs contained no information of any value about *why* the ambulance was delayed on 27 April 2015. We do not see the disclosure, or non-disclosure, of the PRFs to the PHSO as a

subject of any significance and Mr Marshall's apparent suspicion that the Trust suppressed them or otherwise prevented the PHSO from having sight of them seems to us, with due respect, to make little sense.

41. Seventh, the diminution in value of the information requested brings with it the further, closely related and no less undesirable consequence that any public interest in it is correspondingly reduced.
42. Eighth, while we do not question the sincerity of Mr Marshall's belief that he has a legal claim, or at least a moral claim, for compensation against the Trust, the important constitutional right to freedom of information is not properly used as an instrument to further such a claim.
43. Ninth, in so far as (contrary to our view) there may be any public interest in the information requested (or some of it), that cannot negate our finding that the request is vexatious (see *Parker v Information Commissioner* [2016] UKUT 0427 (AAC)).

Outcome

44. For the reasons stated, we are satisfied that the Commissioner's decision was correct and in accordance with the law. The appeal is dismissed.
45. We stress that we have not lost sight of the distressing events with which this long story began. We entirely accept that Mr Marshall's original concerns were sincere and justified. But as we approach the tenth anniversary of those events, we hope that he will think carefully in future before putting himself at risk of further findings of vexatiousness. FOIA exists to safeguard freedom of information. It was not enacted to serve as a tool for furthering personal campaigns and causes, however heartfelt they may be.

(Signed) Anthony Snelson
Judge of the First-tier Tribunal

Dated: 28 February 2025