

## Freedom of Information Act 2000 (Section 50)

### Decision Notice

Date 23 October 2006

**Public Authority:** The Treasury Solicitors  
**Address:** One Kemble Street  
London  
WC2B 4TS

### Summary

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The Complainant is the subject of a civil proceedings order issued under section 42 of the Supreme Court Act 1981. The Complainant wrote to the Attorney General's Office to request information related to the making of this order. The request was transferred to the Treasury Solicitors who refused the request on the grounds that the request could be characterised as vexatious within the meaning of section 14(1) of the Act. The Commissioner has investigated the complaint and has decided that the request was vexatious and that the Treasury Solicitors dealt with the request in accordance with the Act.

### The Commissioner's Role

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1. The Commissioner's duty is to decide whether a request for information made to a public authority has been dealt with in accordance with the requirements of Part 1 of the Freedom of Information Act 2000 ('the Act'). This Notice sets out his decision.

### The Request

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2. In a facsimile to the Attorney General dated 30 November 2005 the complainant requested the following information:
  1. Letter received by the Attorney General Chambers which was sent by the Court of Appeal after a judgement in the Court of Appeal on the 14<sup>th</sup> May 2003
  2. in A1/A2/A3/2003/0596 before Lord Justice Brooke and Lord Justice Carnwath.
  3. List of Authorities.  
Transcript of the Judgement.  
R V Dytham [1956] Lord Denning.

Judgement/Orders obtained by fraud are null and void.

4. UPHILL V B R B [Residuary] Ltd [2005] E W C A Civ 60
5. Vellacott V The Convergence Group Plc [2005] E W C A
3. The request was transferred to the Treasury Solicitors (the public authority) under part 3 of the section 45 code of practice. The public authority responded to the request on 3 January 2006 stating that it considered the request to be vexatious within the meaning of section 14(1) of the Act.
4. The complainant had previously been declared a vexatious litigant in the High Court under section 42 of the Supreme Court Act 1981. The public authority stated that it believed that the purpose of the complainant's request was to re-open or undermine the proceedings surrounding the making of the section 42 order against the complainant and that the request has no other substantive purpose or value.
5. The public authority also said that some of the documents requested by the complainant were publicly available documents and that the complainant was aware of this as was evident from the citations he gave. The public authority said that this indicated that the purpose of the complainant's request was to cause disruption rather than indicating a genuine need or desire to receive the information.
6. On 4 January 2006 the complainant contacted the public authority to request an internal review of its decision to treat his request as vexatious.
7. On 8 February the public authority wrote to the complainant with the outcome of its internal review. It informed the complainant that the earlier decision to treat his request as vexatious had been upheld. The public authority also explained that it considered the request to be "the latest in a series of requests that would impose a significant burden on this department and which clearly does not have any serious purpose or value, except to cause disruption, annoyance and harassment. The public authority also said that the request, when viewed in the context of the complainant's other proceedings, was manifestly unreasonable.

## **The Investigation**

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### **Scope of the case**

8. On 14 December 2005 the complainant contacted the Commissioner to complain about the way his request for information had been handled. The complainant specifically asked the Commissioner to consider the public authority's decision to treat his request of 30 November 2006 as vexatious.
9. The Commissioner recognises that in dealing with and responding to requests for information under the Act, relating to vexatious litigants, the Attorney General acts in conjunction with the Treasury Solicitors.

### **Chronology**

10. On 6 July 2006 the Commissioner wrote to the public authority to clarify the reasons why it considered the complainant's request to be vexatious. The Commissioner wanted to establish that the public authority had treated the request under the Act and had not refused the request solely on the basis that the complainant had previously been declared a vexatious litigant.
11. On 6 September 2006 the public authority wrote to the Commissioner to further explain why it believed that the complainant's request of 14 December 2005 was a vexatious request for the purposes of the Act.

### **Findings of fact**

12. The public authority has confirmed that on 8 December 2003, in the High Court, the complainant was made the subject of a civil proceedings order under section 42 of the Supreme Court Act 1981. The complainant sought leave to appeal the decision and was refused.
13. The public authority has shown that, at or around the time of the request of 30 November 2005, the complainant made a further four requests for information to the public authority.
14. The public authority confirmed that it does not have a "blanket" policy for dealing with requests for information from persons who are or have been declared vexatious litigants. The public authority said that it has dealt with previous requests from the complainant under the Act and had not refused them as being vexatious.
15. The public authority explained that the complainant's requests (2) – (4) are requests for law reports or court transcripts and that these are public documents that are readily and easily available.

### **Analysis**

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### **Procedural matters**

16. Section 14 of the Act states that:

Section 1(1) does not oblige a public authority to comply with a request if the request is vexatious.

17. The Commissioner's general advice regarding vexatious requests is set out in Awareness Guidance 22. This explains that the Commissioner will be sympathetic towards authorities where a request, which may be the latest in a series of requests, would impose a significant burden and:

- clearly does not have any serious purpose or value;
- is designed to cause disruption or annoyance;
- has the effect of harassing the public authority; or
- can otherwise fairly be characterised as obsessive or manifestly unreasonable.

18. The public authority has shown that the complainant was a serial correspondent. This request was the fourth request it had received from the complainant and the requests were themselves part of a larger series of correspondence which related to the section 42 order, with a clear suggestion that the complainant wanted to challenge the validity of the order.

19. The Commissioner is of the view that complying with this request would not in itself impose a significant burden on the public authority. However the Commissioner recognises that the complainant made a further 4 requests to the Treasury Solicitors at or around the time of the request of 30 November 2005 and that these requests were of a thematic nature. The Commissioner accepts that were the complainant's requests to be aggregated it would result in a significant burden being placed on the public authority. The Commissioner also accepts that were the public authority to comply with the complainant's request it would have the effect of the complainant submitting further requests and correspondence related to the concluded section 42 proceedings and that this would lead to a significant burden being placed on the public authority. The Commissioner also recognises that the complainant had made 2 earlier requests in 2005 for information related to the (concluded) section 42 proceedings.

20. The complainant argued in his request of 30 November 2005 that the section 42 order that had been made against him was somehow improperly obtained or invalid. The complainant had repeated these claims in previous and subsequent requests and correspondence. Indeed the complainant's request also contained the following statements:

"I have been victimised..."

"I believe that The Lord Justice Brooke and Lord Justice Carnwath didn't give directions that the Attorney General must issue an application under section 42 of the Supreme Court Act 1981".

"I didn't have a fair hearing under Article 6 of the Convention..."

The public authority has explained that the complainant may appeal against the section 42 order by seeking leave to do so from the court. The Commissioner understands that he has been refused this on several occasions. The Commissioner accepts the public authority's assertion that the complainant's request is in effect "no more than a collateral challenge to the order". And as such is designed to cause disruption and annoyance.

21. The Commissioner recognises that parts 2 – 4 of the complainant's request are publicly available documents. The Commissioner also recognises that by using these citations in his request the complainant was aware that the information was publicly available. The Commissioner is also of the opinion that the purpose of the complainant's request was to express his dissatisfaction at the making of the section 42 order against him rather than a genuine desire to receive the information. The Commissioner is particularly mindful of the complainant's statements (quoted in paragraph 20) which demonstrate that the purpose of his request is to draw attention to the injustice which he believes to have occurred as a result of these proceedings. The Commissioner is of the opinion that whilst the request may not necessarily have been designed to cause disruption or annoyance, it is reasonable to conclude that the effect of the request would be to cause disruption and annoyance to the public authority.
22. The Commissioner is not wholly convinced with the public authority's assertion that the complainant's request is manifestly unreasonable. However the Commissioner does accept that the request can be characterised as obsessive when viewed in the context of his other requests and wider correspondence. The Commissioner considered that the request of 30 November 2005 and the other four requests were of a thematic nature insofar as they related to the complainant's assertion that the section 42 order was not arrived at in a fair manner.
23. In considering whether a request can be characterised as vexatious it is the Commissioner's view that a public authority may take into account whether a request represents a continuation of behaviour which has been judged to be vexatious in another context. In this case the Commissioner accepts that the purpose of the complainant's request was to challenge the validity of the section 42 order and that when considered alongside his other requests, which shared the same purpose, this does represent a continuation of behaviour that has been judged to be vexatious in another context. In reaching this conclusion the Commissioner recognises that the conduct of the complainant has been judged to be vexatious in two cases heard in the Court of Appeal and three cases heard in the Administrative Court.
24. The Commissioner is satisfied that the request is vexatious within the meaning of section 14(1) of the Act.

25. In accepting that the complainant's request was vexatious the Commissioner is in no way expressing an opinion as to the validity of the section 42 order that was made against the complainant.

## **The Decision**

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26. The Commissioner's decision is that the public authority dealt with the request for information in accordance with the Act.

## **Steps Required**

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27. The Commissioner requires no steps to be taken.

## **Failure to comply**

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28. Failure to comply with the steps described above may result in the Commissioner making written certification of this fact to the High Court (or the Court of Session in Scotland) pursuant to section 54 of the Act and may be dealt with as a contempt of court.

## **Right of Appeal**

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29. Either party has the right to appeal against this Decision Notice to the Information Tribunal. Information about the appeals process may be obtained from:

Information Tribunal  
Arnhem House Support Centre  
PO Box 6987  
Leicester  
LE1 6ZX

Tel: 0845 600 0877  
Fax: 0116 249 4253  
Email: [informationtribunal@dca.gsi.gov.uk](mailto:informationtribunal@dca.gsi.gov.uk)

Any Notice of Appeal should be served on the Tribunal within 28 calendar days of the date on which this Decision Notice is served.

Reference: FS50105213



**Dated the 23rd day of October 2006**

**Signed .....**

**Richard Thomas  
Information Commissioner**

**Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF**