



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

Appeal No: EA/2014/0184

ON APPEAL FROM:

**The Information Commissioner's Decision Notice No: FS50533455
Dated: 8 July 2014**

Appellant: Arnold Martyres

Respondent: The Information Commissioner

Heard on the papers: Fox Court, Grays Inn Road, London

Date of Hearing: 10 November 2014

Before

Chris Hughes

Judge

and

Mike Jones, Darryl Stephenson

Tribunal Members

Date of Decision: 31/12/2014

FOIA s14(1)

Cases

Information Commissioner v Dransfield and Devon CC 2012 UKUT 440 AAC

REASONS FOR DECISION

Introduction

1. This request for information arises in the context of litigation concerning the estate of a lady who died in 2009 which is now before the courts. Over the past years the Appellant in these proceedings, Mr Martyres, has made a number of requests for information of various public authorities which he feels may result in the production of information about the deceased which will lend weight to his wife's claim in the probate dispute.
2. Mr Martyres has made a number of requests for information from the Chief Constable of Cambridgeshire in connection with contact between the deceased and the police in 2004. On 14 December 2013 he wrote to the Cambridgeshire force seeking:-

“Please provide me by email with the Incident Number, Rank, Collar and Surnames of any other police officer or police employee involved in that specific incident or any other follow-up incidents.

Please provide me by email with a copy of the Witness Statement provided to [officer's name redacted] or any other police officer or police employee by the late [name redacted] on or after that date.

Please provide me by email with a copy of the complete Incident File.” It appears that in 2004 the deceased may have
3. On 8 January the force informed Mr Martyres that they considered the request vexatious. They confirmed this on internal review on 4 March 2014 and further informed him that further related information requests would be viewed as vexatious and would not be acknowledged or responded to. On 13 March 2014 the force informed him of the outcome of a complaint Mr Martyres had made about “officer A”, who was no longer with the force and had no recollection of the alleged incident. Further related matters were also reported to Mr Martyres on that date.
4. Mr Martyres complained to the ICO. The ICO investigated the complaint. Mr Martyres indicated that he wished to have the material urgently for use in High Court proceedings and that if the various public authorities had complied with his requests

for information the dispute would have been resolved and the estate administered. He argued that disclosure in court proceedings was more expensive, however he acknowledged that the court had made standard directions for inspection and discovery. He considered that the disclosure of the information was essential for his High Court Proceedings and for his Upper Tribunal appeals. The police indicated that previous information requests which were connected to this had been found to be vexatious by the ICO and the First-tier Tribunal. This request was not in isolation burdensome but in context would add to an unreasonably heavy burden on them.

5. The ICO noted the considerable efforts expended by the police in meeting Mr Martyres' requests and complaints, the frequency and tone of his communications which caused distress, that complaints made against the police by Mr Martyres had been comprehensively addressed by the police and the IPCC, that the attempt to elicit information was in his view for an improper purpose, and that if Mr Martyres did not deliberately seek to cause annoyance he had been reckless as to the effect his actions had. He concluded that the impact was disproportionate and upheld the position of the police.
6. In his appeal Mr Martyres stated that he had been in dispute with this police force since 2009 when a malicious complainant had reported his wife to the police. His appeal detailed various complaints that he had made against them and argued that the reliance of those who had looked at his concerns including the Chief Constable, the Police and Crime Commissioner, the IPCC and the ICO had failed in their duty: "*In essence they justified their decisions based on fabricated evidence, misinformation and actual and revolving door cronyism*". He asserted a long history of misconduct against him:- "*These completely baseless complaints have subjected the Appellant and his wife to enormous stress and legal expenses over the last 25 years.*"
7. In his response to the appeal the ICO relied on the findings of his decision notice, made submissions on the basis of the *Dransfield* decision and submitted that Mr Martyres had failed to set out why he considered that the decision notice was incorrect in concluding the request was vexatious.
8. In his response Mr Martyres gave some details concerning the underlying probate dispute and issues which had been raised in it as well as details of the costs incurred. He made a number of assertions of misconduct against named police officers. He

advanced arguments with respect to privacy and confidentiality with respect to the dead. He made submissions with respect to an allegation of harassment notice served on him by the police in September 2014. He argued (bundle page 34/35) that in the context of the case complying with his request would have freed up police time:-

“using his requests under the Act to elicit information which he could then use in other proceedings at a miniscule cost to the Constabulary is an appropriate use of FOIA/EIR.

..sufficient weight can be placed on the serious purpose served by the request to justify little burden on the Constabulary

*In light of the above, the Appellant would invite the Tribunal to uphold this Appeal and order the Chief Constable to now provide the parties **with all the sources of the disinformation that they passed to the IPCC**”*

9. The material submitted by the Cambridgeshire Police to the ICO during the course of his inquiry is illuminating. At bundle pages 87-89 the case officer for the force set out relevant issues including:-

- That he pursues requests relentlessly including asking for material he knows the force does not hold, then pursuing it further through appeal, making numerous complaints to the Professional Standards Department and then the IPCC *”he tends to go off on tangents which can add to the confusion. He has telephoned the Constabulary in the past trying to obtain a crime reference number for an issue which he maintains as a crime but where he is wholly reluctant to provide us with sufficient information to enable us to record a crime. When we fail to record a crime, due to lack of information from him, he then lodges a complaint.”*
- The Professional Standards Department of the Cambridgeshire Police has dealt with 7 complaints from him over three years consuming a considerable number of man hours including from an ACPO rank officer,
- His behaviour has caused stress and he has pursued a similar course with the local council and the Police and Crime Commissioner’s Office. He had attempted to obtain this information through a complaint and was now pursuing FOIA to obtain it.

- The request was obsessive, there had been seven requests in two years all relating to the probate dispute. All allegations had been investigated, he had complained about every outcome and attempted to take them as far as they could go. He was manifestly unreasonable.
- The author doubted the serious purpose of the request or how it could assist with the probate dispute, this was a private matter there was no public interest in the disclosure.

Conclusion and remedy

10. The case is very clear. The decision notice properly considered all the relevant issues in the light of the Dransfield case. The police have supplied a wealth of information indicating the burden it causes, the annoyance and distress to staff, the lack of serious purpose since the requests can have little or no value in advancing Mr Martyres' aim with respect to the probate dispute and the motive behind the request, since Mr Martyres has pursued a range of complaints and requests knowing that they lacked any merit. Mr Martyres is very aggrieved about the probate dispute and has attempted to argue a serious purpose in his pursuit of the probate dispute; however the public interest in this is minimal and he has become side-tracked into pursuing issues with the police for no proper purpose.
11. The Tribunal is satisfied that the ICO's decision is correct in law, the request is a vexatious request under s14(1) and dismisses the appeal.
12. Our decision is unanimous

Judge Hughes

[Signed on original]

Date: 31/12/2014