Appeal number: EA/2019/0408
V[1]

FIRST-TIER TRIBUNAL
GENERAL REGULATORY CHAMBER
INFORMATION RIGHTS

SANDY HYND	**Appellant**
- and -	
INFORMATION COMMISSIONER	**First Respondent**
-and-	
COMMISSIONER OF POLICE FOR THE METROPOLIS	**Second Respondent**

TRIBUNAL: **JUDGE LYNN GRIFFIN**

TRIBUNAL MEMBER AIMEE GASSTON

TRIBUNAL MEMBER ROSALIND TATAM

Appearances: **The Appellant appeared in person**
The First Respondent did not attend and was not represented
Robert Cohen, counsel for the Second Respondent

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[1] *V: video (all remote)*

DECISION

1. The appeal is dismissed.

2. For the reasons stated below, the Commissioner's Decision Notice FS50840443 of 10 October 2019 is confirmed.

MODE OF HEARING

3. The proceedings were held remotely via the cloud video platform. All parties joined remotely , the Appellant joined by telephone. The Tribunal was satisfied that it was fair and just to conduct the hearing in this way. There were no issues with communication technology that impaired communication.

4. The Tribunal considered an agreed open bundle of evidence comprising 186 pages and a supplementary bundle comprising 117 pages.

5. The Tribunal apologises for the delay in issuing this decision.

REASONS

Background to Appeal

6. The information requested in this case concerns the procurement of a new information technology system by the Metropolitan Police Service. The equivalent of the chief constable of the Metropolitan Police Service is known as the Commissioner of Police for the Metropolis or the Commissioner of the Metropolitan Police or the Commissioner for short. Given both the Respondents are known as the Commissioner we will adopt the naming system used by the parties previously and call the First Respondent the Commissioner and the Second Respondent the MPS.

7. For over a decade until November 2018, the MPS used an IT system called MetRIC (Met Requests for Information and Correspondence) to process and record all requests for information relating to the Data Protection Act, Freedom of Information Act and Environmental Information Regulations. It was also used to record items of correspondence and record deletion requests received from the general public. The Appellant was responsible for the MetRIC system.

8. The Appellant is connected to the company we shall refer to as D Company that used to provide a system known as "MetRIC" to the MPS but having experienced issues with the software (alongside changes within MPS in the handling of information requests, and the introduction of their Digital Policing Strategy) a business case was created and approved by MPS to decommission the system and replace it with another system provided by a different company.

9. In December 2017 the MPS asked the Appellant to submit a proposal to replace the MetRIC system which the Appellant and D Co. provided in December 2017. A business case to replace MetRIC and procure another system (obtained through the Crown Commerical Services G-cloud framework) was approved on 23 April 2018.

10. The Appellant wrote to the MPS on 26 April 2018 and 8 May 2018 requesting information regarding the status of the Appellant's proposal to replace MetRIC.

11. The Appellant told the Tribunal that on 11 May 2018 he received a request from an agent acting on the MPS' behalf for a quote to renew the support and maintenance for the period commencing September 2018 and the cost of support and maintenance for MetRIC commencing 1 September 2018 was agreed on 30 August 2018.

12. On 7 November 2018 the Appellant wrote to the MPS requesting information regarding the status of the Appellant's proposal to replace MetRIC.

The request

13. The Appellant made a request for information to MPS on 8 November 2018 which was refused on the grounds of cost of compliance; s12 Freedom of Information Act 2000 (FOIA)[2].

14. The Appellant made a refined request on 13 December 2018 as follows

> *"…Can you limit your searches to all internal email correspondence sent or received by [name redacted] concerning the procurement and implementation of*

[2] This refusal was upheld by the Commissioner under reference FS50838326, see bundle page 85.

software to replace the metric system in the period 1 September 2017 to 8 November 2018"

15. The request of 13 December 2018 is the request that concerns this Tribunal.

16. MPS responded on 14 January 2019. It refused to provide the information requested in reliance upon section 12 FOIA. The Appellant requested an internal review on the same day.

17. The MPS's response changed following the internal review, and they advised the appellant that they considered the request was vexatious under s14(1) FOIA on the basis that to comply with the request would be burdensome. In fulfilment of its duty under section 16 FOIA, MPS invited the Appellant to submit a request for "specific emails within a very narrow timeframe".

18. The Appellant complained to the Commissioner on 18 April 2019. The Commissioner issued Decision Notice FS50840443 on 10 October 2019. The Commissioner decided that the MPS can refuse to comply with the request on the basis of s14(1) FOIA and did not require MPS to take any steps.

19. When making this decision the Commissioner considered the legal framework and principles set out in the leading case of Dransfield v Information Commissioner & Devon County Council [2015] EWCA Civ 454.

20. We note the Appellant's helpful indication in his opening remarks that there is no dispute about the law to be applied in this case. The issue lies in the application of the principles to the facts of his case.

21. The Commissioner also considered the Appellant's case that the MPS were deliberately blocking access to the information sought, particularly in revising its position on internal review to rely on s14 FOIA.

22. The Commissioner was satisfied that a public authority should revisit the request when undertaking an internal review, therefore the revision of the MPS position from reliance on s12(1) to s14(1) was not inappropriate simply because their position changed.

23. The Commissioner noted the MPS position that it did not possess limitless resources and that compliance with the request would require a specific member of staff to go through over 1,000 emails to check for necessary redactions or applicable exemptions, as well as to consider whether the emails

were within scope of the request. The MPS relied on the disproportionate burden compliance would impose on them due to

a. The volume of information held

b. The potential for one or more exemptions under FOIA to apply to the information or any part of it

c. The opportunity cost of the resources needed to undertake the task of identifying the information and the diversion of the staff member from other duties to complete the task

d. Further time to identify any harm that could be caused by disclosure requiring consultation with relevant stakeholders

e. The physical process of redaction would be time consuming and divert staff from other duties

f. The purpose and value of the request being disproportionate to the time/cost required to comply.

24. The Commissioner considered there is a high threshold for refusing a request under s14 on the basis that the amount of time required to review and prepare the information for disclosure would place a grossly oppressive burden on the public authority. As she stated at paragraph 16 of her decision this means that a public authority is most likely to have a viable case where:

a. the requester has asked for a substantial volume of information and

b. the authority has real concerns about potentially exempt information, which it will be able to substantiate if asked to do so by the Commissioner and

c. any potentially exempt information cannot easily be isolated because it is scattered throughout the requested material.

25. Having considered those three criteria and applied them to the facts the Commissioner decided that the MPS had been entitled to rely on the fact that complying with the request would place a grossly excessive burden upon it.

26. The Commissioner then considered whether the purpose and value of the request were enough to justify the adverse impact on MPS. In doing so the

Commissioner acknowledged the legitimate value and purpose in disclosure to the extent that it would demonstrate accountability for expenditure of public funds but that the MPS is subject to external scrutiny in this regard and subject to regulation in its procurement processes.

27. The Commissioner accepted the suggestion made by the MPS that the request was unfocussed; in other words that it amounted to a "fishing expedition". She also noted the relationship between the Appellant and the company that previously provided the IT system to the MPS. The MPS decision to decommission one system and adopt another had lead to persistent correspondence in that regard. The Commissioner concluded that although the matter may be of significant personal interest to the Appellant there was little evidence to show how the requested material is of wider public interest, in addition to information that is already in the public domain.

28. The Commissioner concluded that the purpose and value of the request was not sufficient to justify the burdensome impact on MPS and therefore concluded that the request is vexatious.

Appeal to the Tribunal

29. In the Appellant's Notice of Appeal dated 7 November 2019 he put forward his main ground of appeal as that the MPS and the Commissioner had misunderstood the nature of the request and as such he said there is no justification for considering it to be vexatious under s14(1). He expanded upon this in his detailed grounds which may be summarised as follows

a. The Commissioner was wrong to make reference to over 1,000 emails

b. The actual number of emails had never been established. The time it would have taken to identify and isolate the internal emails requested was much shorter than suggested by MPS and much simpler. This is because

    i. The request was refined from that made on 8 November 2018
    ii. The emails were all in one folder
    iii. The use of a search tool within the email programme would mean that there was no need for an individual to manually review each email to determine whether it was relevant

iv. There was no need for blanket redaction of names or identifiers; this cost should not be included in determining whether the request was burdensome
v. There was no need to consult third parties
vi. The date range of the request was aligned to the dates of the project
vii. It is not a matter for MPS to determine the purpose of the request and the Commissioner was wrong to accept their submissions

c. As MPS has never quantified the number of emails, their position is unsustainable, and they have not even attempted to respond to the refined request

d. The Commissioner wrongly relied on the absence of arguments from the Appellant when he could not have provided any given that he had not been informed about the factors that would be taken into account.

30. The Commissioner's response dated 5 December 2019 maintains her analysis as set out in the Decision Notice.

31. The MPS response adopts much of that of the Information Commissioner and avers that as the Appellant was responsible for the programme that was replaced by MPS he has a "deeply held sense of grievance" about the procurement exercise which has, inter alia, resulted in wide ranging requests for information as in this case in circumstances when he was aware of the difficulties there would be in answering widely drafted requests given the procurement exercise (and implementation) included many departments and individuals.

32. The MPS points out that they are subject to independent monitoring including by HM Chief Inspector of Constabulary and is required to comply with public procurement regulations.

33. The MPS makes 4 key points arising from the chronology

a. Although MPS accepts that there is a legitimate public interest in the circumstances in which the new programme was procured, the Appellant is also pursuing a personal interest and a personal campaign.

b. Despite being defined as refined, the request still catches a very large amount of information.

c. The request is not 'focused' in any sense of the term.

d. The public interest associated with the information is already vindicated (at least to an extent) by the existing regulatory framework.

The Law

34. Pursuant to section 14(1) FOIA, section 1(1) does not oblige a public authority to comply with a request for information if the request is vexatious.

35. In the case of Dransfield v Information Commissioner & Devon County Council [2015] EWCA Civ 454 the Court considered the definition of vexatious and said in dismissing Mr Dransfield's appeal from the Upper Tribunal

> *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 that 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.*
>
> *Per Arden LJ, paragraph 68*

36. In the Upper Tribunal appeal that preceded the decision of the Court of Appeal, four areas were identified as being relevant circumstances or themes to consider, albeit this was not an exhaustive list and a holistic approach should be taken[3]

> (1) the burden (on the public authority and its staff); the number, breadth, pattern and behaviour of previous requests might be a telling factor,

[3] See Parker v Information Commissioner [2016] UKUT 0427

(2) the motive (of the requester); including when a request might start as reasonable but lead to further requests which "become increasingly distant from the requester's starting point", which UT Judge Edwards had called "vexatiousness by drift",

(3) the value or serious purpose (of the request) which will be connected to the motive of the requestor,

(4) any harassment or distress (of and to staff); such as obsessive conduct that harasses or distresses staff, use of intemperate language, or making unsubstantiated allegations or abuse.

37. The decision of the Upper Tribunal and Court of Appeal in Dransfield are consistent with each other and binding on this Tribunal as to the approach to be taken.

38. The powers of the Tribunal in determining this appeal are set out in s.58 FOIA, as follows:

> *"If on an appeal under section 57 the Tribunal considers -*
>
> *(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.*
>
> *On such an appeal, the Tribunal may review any finding of fact on which the notice in question was based."*

39. We note that the burden of proof in satisfying the Tribunal that the Commissioner's decision was wrong in law or involved an inappropriate exercise of discretion rests with the Appellant.

The facts

40. The Tribunal heard evidence from Mr Brian Wilson the Senior Information Manager, in the Information Rights Unit of the MPS. His statement stood as evidence in chief, see page 10 of the supplementary bundle. He was cross

examined by the Appellant. The Tribunal accepted Mr Wilson's evidence and found him to be a credible witness.

41. Mr Wilson has been in his role since 2017 he has oversight of FOIA compliance within MPS. The MPS is among the largest public authorities in the UK and employs approximately 45,000 people including around 9,500 police staff. Approximately 250 police staff are employed by the MPS at senior management grade (including the member of staff named in the request).

42. The MPS receives a high volume of FOIA requests when compared to other public authorities. For example the MPS received 4,211 FOIA requests in 2019. No other FOIA requester has asked for information on the replacement of the MetRIC system

43. The request is focussed upon emails sent and received by a specific senior manager employed in a specialised role which leads to an unavoidable bottleneck in relation to compliance with this request.

44. There is an email folder held by the senior staff member called the 'MetRIC folder' with 1,000+ emails but this was not the only location that held information relating to the request. The figure of 1,000 emails is a conservative estimate of the number of emails that could potentially relate to the request. Emails to and from external third parties in the context of the requested information were typically copied to multiple individuals within the MPS as there were multiple internal stakeholders involved in the procurement and implementation of software to replace MetRIC. Such emails could reasonably be described as an internal email.

45. Mr Wilson understood the nature of the request made and pointed out the Appellant could not know the ratio of external to internal emails held by MPS nor the nature or quantity of redactions that would be required. At each stage of the process the MPS look afresh at the request and made a decision. There was no reason to try and accurately quantify the number of internal emails in that folder, as the scope of the request was not limited in his view to one folder. One it was clear that there were over a 1,000 emails it was not proportionate to go further. Of those emails less than 80 were external.

46. It would take 2 weeks to review this quantity of emails.

47. In order to identify potential harm in disclosure the email account holder would have to advise on potential harm that could be caused which would have an opportunity cost. Mr Wilson would not expect individuals within other business areas of the MPS to be experts in FOIA legislation and he would expect such individuals to advise of any 'harm' in disclosure with a view to enabling an FOIA practitioner to identify whether any such harm is relevant to any FOIA exemptions. Other stakeholders would likely need to be identified and/or consulted. Therefore, considering the harm in disclosure would be a necessary step in order to consider FOIA exemptions. Also external third parties may still be a stakeholder in relation to the requested information and need to be consulted, regardless of whether or not the email correspondence was sent to, or from, external parties. The burden of complying with the request would be multiplied by the need to consult other senior stakeholders and carry out other tasks associated with the large volume of information relevant to the request.

48. The wording of the FOIA request in this case clearly asks for information 'relating to the procurement and implementation of software to replace the MetRIC system' and similar wording was used in other requests submitted by the Appellant.

49. Mr Wilson did not conduct the review but had viewed some emails from various sources to consider the MPS response to the request, some of these emails were from the Appellant others were not. He felt he had seen enough to know that the decision was not borderline. He had considered whether there was objective evidence to support the Appellant's case that the request was not vexatious.

50. In correspondence from the Appellant dated 19th April 2018 , sent at 13:08 he appears to allege that the MPS has not assessed best value and/or treated suppliers fairly and transparently and suggested that D Co. was left with 'no alternative but to seek legal advice'.

51. On 20th November 2018, the Appellant was advised that the MPS would not be progressing with their proposal to replace MetRIC with an updated system from D Co. but would be procuring new software.

52. An email from the Appellant dated 13th December 2018 sent at 01:00 on behalf of D Co. advised that:

a. They had instructed their lawyers to prepare a legal case

b. To avoid legal action they needed further clarification about the decision not to proceed with a proposal dated from D Co. to upgrade or replace MetRIC

c. Their lawyer advised that there are strict time limits regarding procurement challenges

d. They need a response to 5 questions by 5pm the next day.

53. The date of this correspondence is significant as it is both the date of a section 17(5) refusal notice (sent at 11:05) citing section 12 sent in response to an earlier request, in addition to being the date that the request that is the subject of this appeal, was received by the MPS (received at 13:07).

54. The Appellant has continued to pursue legal action against the MPS meaning that from at least April 2018 to date, legal action has been contemplated and/or actively pursued regarding related matters.

Issues

55. The Respondents provided a list of issues which is to be found at page 89 of the supplementary bundle.

56. The Appellant submitted his own list of issues, this is at page 91.

57. The Tribunal bore these issues in mind and have determined only those issues that are necessary to decide the appeal noting how the evidence and submissions developed throughout the hearing.

Submissions

58. The Appellant submitted in opening that the request was not grossly oppressive or burdensome and that the Second Respondent's position is based on, not only a fundamental misunderstanding of the information requested but also the effort that would be necessary to provide it. He submits that the MPS has mislead the ICO as to the background and context which led to the decision.

59. In closing, the Appellant made the following points to highlight his case

a. It would have been easy to quantify the number of emails but the Second Respondents did not do so. He questioned the evidence that nearly all the emails were internal. It would have been simple to perform a search

as he suggested and then make a judgement on burdensome. They took the burdensome decision prematurely

b. The estimate that it would take 10 days to identify and process the emails was excessive when compared with what done in the sampling exercise for the original unrefined request. The MPS had not properly identified that the refined request was for internal email. None of documents in the bundle indicated that only internal mail was asked for until Brian Wilson's witness statement. Until Mr Wilson used the word "potential", MPS referred to the number of actual emails. That is in conflict with their response. The Appellant did not believe the request for internal email was ever really considered as he submits the MPS relied on the initial response to the unrefined request, which did not specify internal emails and it was addressed only as an afterthought.

c. Thus he submits the MPS and ICO judgement that the request was burdensome was not based on a proper assessment which would have been easy to do and therefore is invalid.

d. He submits that the criticism of the request as being scattergun and with no focus are invalid; the request was specific in relation to the procurement project and had focus.

e. The Appellant believes the disclosure would be in the public interest as the costs of the solution that was chosen and relative costs were not value for money. The MPS would have spent millions less on the solution offered by D Co. and it is in the public interest to see that.

f. He submitted the limited value argument was flawed. He accepted that was a personal motive to find information about the process which he submitted was handled badly regardless of whether it met the rules. He suggested that there was bad practice in the tendering process. He suggested that D Co. had spent thousands of pounds. He believes their tender was no considered. The personal motivation does not make it any less in the public interest to know how a major procurement was handled.

g. There would have been no point making persistent complaints about the outcome of the procurement. There was one email in April that

displayed an element of frustration. It does show a motivation but does not constrain the MPS in terms of transparency.

h. The Decision Notice said that no arguments to the contrary had been provided. They had redacted sensitive material on the basis of national or public interest which he submitted was spurious. The ICO did not come back to him after MPS made its submission to check despite the statements made about him therein.

60. The MPS emphasised that the Tribunal should not conduct a judicial review of the decision of the Commissioner. Mr Cohen relied on his written submissions and in addition submitted

a. Mr Wilson was consistent in his estimate of the burden imposed by the request based on the estimated number of emails. His evidence was measured and he understood the limitations of his expertise which increases the weight that can be attached to his evidence

b. Ten working days is 80 working hours or 4,800 minutes which equates to a realistic figure of 4.8 minutes an email

c. The issue in this appeal is not the same as when the Tribunal is concerned with s12 to which the fees regulations apply

d. It is likely given the nature of a procurement exercise different departments will be involved and a range of seniority of staff members

e. It is likely that in these circumstances a range of exemptions would have to be considered

f. The MPS had taken a rigorous approach and drawn proper conclusions

g. There is overwhelming evidence of a disproportionate burden and the appeal should fail on this point

h. The Appellant is wrong and the ICO were entitled to consider the history of other requests

i. The nature of the questions asked of the witness by the Appellant demonstrate the focus of his interest is to perpetuate the grievance he has as regards the procurement of a different IT system. Taken with the wide ranging request this illustrates the underlying purpose of the request is a fishing expedition rooted in a deep personal interest

j. Although a public interest may not be mutually exclusive to a private interest s14 is correctly engaged in this case

61. In reply the Appellant repeated his submissions that there was no evidence that the MPS recognised his request was for internal emails only and that the ten day estimate was excessive. He submitted that his approach was not correctly described as persistent as he was unaware of the outcome of the procurement process. He accepted he had a personal interest but that it was important that public understood the value for money process undertaken.

Analysis and Decision

62. As stated by the Upper Tribunal in Ofcom v Morrissey and IC, and confirmed in Information Commissioner v Malnick and ACOBA [2018] UKUT 72, the role of the Commissioner is to decide whether a public authority has responded to a request for information in accordance with the requirements of Part 1 of FOIA.

63. Our role is to consider whether the Commissioner's decision notice was in error of law or involved an inappropriate exercise of discretion, see above under legal framework.

64. A public authority does not need to establish the number of emails or pieces of information within scope of a request in order to assess the burden that would be placed upon them in responding to the request for information. The request was about a major procurement project which involved more than one department of the MPS and a range of staff as well as external stakeholders.

65. MPS is a large and complex organisation and we accept that because of this it is a reasonable inference to draw that there will be a large number of internal emails. We accept Mr Wilson's evidence that the majority of the emails were internal.

66. The burden in this case arose from the diversion of resources to examine those emails and their threads, as well as the material attached to those emails. It would be necessary to identify the emails within scope, consider the content for possible exemptions under FOIA, and where any possible exemption was a qualified exemption then the public interest would need to be considered. Colleagues and stakeholders would need to be consulted and personal data redacted. This is not a comprehensive list of what would be required.

67. We considered the Appellant's submission that there were swifter ways to identify the relevant material and content. However, even if the time taken to search could be reduced the task of considering the content of the material could not be automated due to the range of potential exemptions that could apply, nor the time to consult internally and externally or the physical process of redaction of material covered by an exemption.

68. We considered the significance of the lesser estimates previously given and note these were made in the different context of the application of s12 FOIA and the fees regulations that govern what may be taken account of when considering whether the costs estimate exceeds that prescribed. Considerations under s14 are broader.

69. We also find that the MPS were entitled to alter their position on internal review, the whole purpose of which is not to rubber stamp the original response made by the public authority but to reconsider the position taken, identify any error or irregularity and revise the original response if appropriate

70. We have concluded that the estimate of two working weeks or 80 hours to examine approximately 1,000 emails is not disproportionate nor excessive, and that the estimated number of emails is reasonable, for a major project, noting that the scope of the request is for a period of a little over fourteen months.

71. We turn then to the issue of the value and purpose of the request. The Appellant was clear that he made his request in pursuit of potential legal action (a factor to take into account when considering s.14). He did not deny a personal motivation behind his request but submitted that there was a wider value and purpose to maintain transparency and accountability in the procurement process and value for money in the spending of public funds. He does not dispute that the MPS is subject to external scrutiny and must comply with procurement regulations and processes.

72. We accept that the arguments for and the costs of the procurement are in the public domain. We note that the procurement was endorsed by the Mayor's Office for Policing and Crime's Investment Advisory Board. We conclude that the external scrutiny and adherence to the required procurement process are sufficient to safeguard transparency and accountability in the procurement process.

73. We noted that the Appellant's dissatisfaction with the process and his frustration at D Co.'s proposal not having succeeded was evident in his correspondence, written submissions and, Mr Cohen submitted, even during the Tribunal hearing. We place little weight on this last aspect as the stress of a Tribunal hearing is bound to magnify emotions and the Appellant is a litigant in person unused to questioning witnesses or making submissions.

74. However, we do conclude having considered all the evidence and the Appellant's submissions that at the heart of the request is the Appellant's dissatisfaction with the process of procurement undertaken by MPS and a desire to correct the perceived wrongs done to the Appellant and D Co. There are likely to be other routes to address such concerns rather than this Tribunal.

75. We note the request was aimed at a particular member of staff with whom the Appellant had repeated correspondence and we note at page 21 of the bundle that the Appellant describes the information rights team as "manifestly unfit for purpose". We do not agree with this characterisation and noted Mr Wilson had looked in detail as to whether anything in the process in his department was either unfair or misleading.

76. We do not accept the Appellant's contentions that the MPS failed to consider the scope of his refined request properly nor that the Commissioner was misled in her investigation. This allegation appears to have arisen because the Appellant believed that MPs did not approach the request on the basis that it asked for only internal emails. We accepted Mr Wilson's evidence on this and having considered that evidence together with the evidence in the bundles we reject the accusations.

77. We agree with the Commissioner that the purpose of s14(1) is to protect public authorities from requests for information that would cause an unjustified or disproportionate level of disruption.

78. We have taken a holistic approach to the question of vexatiousness. Having considered all of the evidence and applied the law we have concluded for all of these reasons that the request is properly described as vexatious due to

> a. The burden on the public authority, due to the amount of time required to review and prepare the information for disclosure would place a grossly oppressive burden on MPS

b. The disproportionate effort that would be needed to provide the information as compared to the limited purpose and value of the request, not only to the requestor but also the wider public, given the wide range of information about the procurement process already in the public domain.

Was the Decision Notice in accordance with the law?

79. Turning to the decision notice reference FS50840443 of 10 October 2019. For all the reasons set out above, we have concluded that the Commissioner approached the issues in the case correctly, and took into account the relevant matters of fact and principles of law.

80. The Commissioner reached a decision that was not in error of law. Nor was there an inappropriate exercise of her discretion. Therefore we confirm her decision and dismiss this appeal.

2 December 2021

Lynn Griffin
Tribunal Judge

Promulgated: 2 December 2021