Neutral citation number: [2025] UKFTT 00410 (GRC)

Case Reference: FT/EA/2024/0380

First-tier Tribunal
(General Regulatory Chamber)
Information Rights

Heard by Cloud Video Platform
Heard on: 19 February 2025
Decision given on: 9 April 2025

Before

TRIBUNAL JUDGE THOMAS BARRETT
TRIBUNAL MEMBER MARION SAUNDERS
TRIBUNAL MEMBER PAUL TAYLOR

Between

DAVID MORRIS

Appellant

and

THE INFORMATION COMMISSIONER

Respondent

Representation:
For the Appellant: Mr David Morris by CVP
For the Respondent: Written Submissions

Decision: The appeal is Dismissed. The public authority was entitled to rely on s. 14 of the Freedom of Information Act 2000 ("FOIA") to refuse the request.

REASONS

Introduction

1. This is an appeal against the Commissioner's decision notice IC-293134-Z1W1 of 6 September 2024 ("DN") which held that the Department for Energy Security and Net Zero ("DESNZ") was entitled to refuse the request in reliance on FOIA section 14(1).

2. The Commissioner required no steps to be taken.

3. The proceedings were held by video (CVP). Mr Morris requested an oral hearing and attended by CVP. The Commissioner considered the appeal could be appropriately dealt with on the papers and so did not attend, instead relying on the contents of the written representations included in the bundle. The Tribunal was satisfied that it was fair and just to conduct the hearing in this way.

General Background

4. On the 13th September 1991 Mr Morris had a serious industrial accident when he was working as a coal miner. He was subsequently unable to work and was paid various social security benefits as a consequence. Mr Morris obtained legal representation and made a claim against his employer at the time of the accident, the former British Coal Corporation ("BCC").

5. Although liability was never conceded the case settled in 1996 when, whilst legally represented, Mr Morris accepted a settlement offer made to him through the method of a payment into court and the litigation was brought to a close without a trial being needed.

6. Under the law that applied at the relevant time compensation settlements were subject to a requirement that the compensating body (i.e. BCC here) may have to withhold from the settlement amount a sum equivalent to the amount of certain social security benefits that the injured person had received (i.e. Mr Morris here). When making the payment into court this could be done either gross or net of the relevant benefits to be deducted.

7. The settlement figure was calculated on the basis that it would include the benefit recovery amount, and so ultimately the amount to be received by Mr Morris would be a smaller sum (as it would be reduced by the relevant amount of benefits that had to be recovered). The proposed date for payment was 5 April 1996 and so a prospective 'certificate of total benefit provided' was obtained calculated up to that date which provided a total recovery amount of £30,768.18. At the relevant time the Appellant was still in regular receipt of relevant benefit payments and so the 'total benefit provided' was not a fixed sum in that it increased over time whenever the next relevant benefit payment was made.

8. On the 5 April 1996, had the settlement gone through on that day, the £50,000 paid into court would have been reduced by £30,768.18 so that Mr Morris would have received £19,231.82. Unfortunately, there was a delay to the payment, likely because the 5 April 1996 was Good Friday and therefore a Bank Holiday.

9. This delay meant that Mr Morris received a further benefit payment of £157.92, which in turn increased the total benefit recovery amount up by the same sum from £30,768.18 to £30,926.10. This would of course mean that in the normal course of events the amount Mr Morris would ultimately receive would be reduced by that same amount given the requirement to recover the benefits from the settlement sum.

Mr Morris would normally have therefore received only £19,073.90 following the delay rather than the £19,231.82 expected on the 5 April 1996.

10. However, that is not what actually took place. Because in this case rather than the settlement amount remaining at the £50,000 amount originally contemplated, it was instead increased by the sum of £157.92 to a new figure of £50,157.92. Consequently, this increase to the settlement sum effectively nullified the increase in the benefit recovery figure arising due to the extra benefit payment made after the Good Friday delay. Mr Morris, when the settlement did go through, therefore still received the original amount expected of £19,231.82 as well as an extra social security benefit payment of £157.92 (because the amount of benefit to be recovered had increased because of the delay, and so the sum due to Mr Morris would have otherwise decreased to reflect that but for the increase in settlement amount). In previous Tribunal proceedings[1] Mr Morris accepted in the hearing that he had not lost out as a result of this adjustment.

11. Following the settlement being actioned and Mr Morris receiving the £19,231.82 owed, there were a number of further substantive proceedings related to this payment but they are not relevant for the purposes of this appeal.

12. The discrepancy between the original settlement sum of £50,000 and the final settlement sum of £50,157.92 has unfortunately been a focal point for Mr Morris over many years. Leading him to believe that the discrepancy is evidence of a conspiracy and to feel considerable distress and concern as a consequence.

13. Subsequent to the settlement of the case the liabilities of the BCC transferred to the Department of Trade and Industry ("DTI") on 1 January 1998 and then to the successive departments, the Department of Business Enterprise and Regulatory Reform ("BERR"), the Department of Energy and Climate Change ("DECC"), the Department for Business Innovation and Skills ("BIS"), the Department for Business, Energy and Industrial Strategy ("BEIS") and currently DESNZ.

14. Mr Morris has since 1998 been in substantial and regular correspondence concerning issues related to his accident claim with the various successor organisations to BCC, including by making numerous subject access and FOIA requests. This includes more than 38 subject access requests that have been processed by the successor organisations for Mr Morris since 2008. The various requests have often then engaged the Respondent (see for example the 2013 Decision Notice FS50463281 and Decision Notice IC-279490-M7L5 on 13 August 2024 which is the subject of a separate appeal before this tribunal) as well as led to more than one previous Tribunal decision (e.g. EA/2013/0072 and EA/2017/0183).

Request and Response

15. Mr Morris made the 5 requests to DESNZ that are the subject of this appeal within the period of the 13th to the 24th of January 2024. The requests all related to

[1] See Paragraph 19 of David Morris v. ICO EA/2017/0183 Heard on 14 December 2017

information connected to his historic accident compensation claim and events that followed. The requests are highly specific and difficult to follow at times in part because they use a bespoke numbering reference system created by Mr Morris to refer to other documents.

16. The five requests can be summarised as all seeking the disclosure of what is referred to as "hypothetical legal professional privileged advice":

    a. 13th January 2024 – Mr Morris seeks "the hypothetical Legal Professional Privileged ("LPP") advice used to produce paragraphs 8,9,10,11 & 12" of a decision notice issued by the Commissioner in 2017 in relation to another case of Mr Morris' against another Public Authority (i.e. Decision Notice FS50645026[2]).

    b. 15th January 2024 – Mr Morris makes a request that acknowledges that in relation to a previous request of his, some information was rightly withheld on the basis of LPP, but then makes a further request for "all the hypothetical LPP advice that made up the rest of "an unredacted letter setting out the outcome of an internal review of another request from 22nd October 2007. Mr Morris states that the purpose and motive of this request is to "show how hypothetical LPP advice must be provided and correct LPP cannot".

    c. 20th January 2024 – Mr Morris requests "the hypothetical Legal Professional Privileged LPP advice that resulted in the fictional "out of court" settlement" that is referenced in three pieces of correspondence sent by BIS, BERR and the Commissioner respectively. Mr Morris states that the purpose and motive of this request is to "show a pattern of LPP being abused".

    d. 23rd January 2024 - Mr Morris requests "the hypothetical legal advice, that made up the contents of "two unredacted letters sent by BERR to Stephen Hepburn MP on the 10th August 2007 and the 3rd September 2007". Mr Morris states that the purpose and motive of this request is to "show the abuse of so called LPP".

    e. 24th January 2024 – Mr Morris requests "all the untruthful hypothetical legal advice under section 42 FOIA that made up the attached 16 May 2007 letter" which is a letter from the DTI to Mr Morris. Mr Morris states that the purpose and motive of this request relates to "abuse of LPP advice legislation to make fake personal data".

17. On the 31st January 2024 DESNZ responded to all five requests collectively. It wrote to Mr Morris stating that:

    "You will be aware that this department and our predecessors have corresponded with you for a number of years on these issues. The Department

[2] https://ico.org.uk/media/action-weve-taken/decision-notices/2017/2014595/fs50645026.pdf

considers your latest requests and correspondence to be vexatious and that in accordance with Section 14(1) of the Freedom of Information Act, it is not required to respond to them due to the disproportionate level of disruption to the Department's mainstream activities that would be caused in seeking to comply. In considering the Section 14(1) exemption we have sought to weigh the purpose and value of continuing to answer such requests against the time and resources that is needed to be diverted from other work to continue with this correspondence. Therefore, we will not be complying with any of the above under Section 14(1) of the Act."

18. DESNZ further set out that it would not going forward respond to Mr Morris on any further requests for information on the same or similar topics and would rely on section 17(6) FOIA to not have to issue further refusal notices under s.14, with further correspondence being filed without a response.

19. On 4 February 2024 the complainant requested an internal review. DESNZ responded on 29 February 2024 upholding the application of section 14(1).

Complaint to the Commissioner

20. On the 8 March 2024 Mr Morris contacted the Commissioner to complain about the handling his requests by DESNZ.

21. That complaint did not specifically address DESNZ's reliance on s.14 to refuse the request which is the core issue here. The primary focus of this complaint was a number of assertions by Mr Morris about his personal view that there was a "scam" relating to people making Subject Access Requests under the Data Protection Legislation and his belief that s.42 of the FOIA was being applied to deny such requests.

22. Mr Morris sought to make novel legal arguments asserting there to be some kind of additional test of 'truth' that needed to be applied before material could be withheld as being legally professionally privileged. The primary focus of this complaint was a number of assertions by Mr Morris about his personal view that there was a "scam" relating to people making Subject Access Requests under the Data Protection Legislation and his belief that s.42 of the FOIA was being applied to deny such requests. In particular stating "Careful consideration must be given to whether a person is "Vexatious"or "Not Vexatious" and given that under section 42 FOIA truthful LPP advice is exempt, being deemed vexatious is because you are not vexatious and being deemed not vexatious is because you are".

The decision notice

23. In his decision notice IC-293134-Z1W1 of 6 September 2024 the Commissioner decided that the request was vexatious and therefore DESNZ was entitled to refuse the request in reliance on FOIA s.14(1).

24. In summary:

a. the Commissioner had regard to the authority of Dransfield[3] and his own guidance on dealing with vexatious requests[4]. Noting in particular that "when considering value and serious purpose we are concerned with assessing whether there is public interest in disclosure. This means that the requester's private interests in the information carry little weight unless they coincide with a wider public interest".

b. the Commissioner accepted that "the complainant has determinedly pursued his enquiries ... [and that] the complainant believes that there have been errors to his detriment in the handling of events dating back to his accident along with attempts at concealment. This belief has driven his repeated contact to investigate and research those events in order to satisfy himself of that handling".

c. the Commissioner specifically sought to explain to Mr Morris that he as a person is not deemed as vexatious but the requests a person makes could be and that such a determination is not related to or in fact the application of s.42 of FOIA.

d. the Commissioner was satisfied that DESNZ "has comprehensively addressed the complainant's issues ... [and] has seen correspondence repeatedly explaining the events which the complainant appears not to be able to accept."

e. in assessing the reasonableness of the pattern of requests the Commissioner noted that "The greater the number of requests received, the more likely it is that the latest request may be considered as vexatious. This is because the collective burden of dealing with the previous requests, combined with the burden imposed by the latest request, may mean that a tipping point has been reached, rendering the latest request vexatious."

f. public authorities should not be expected to have to shoulder a disproportionate burden in meeting their commitments to transparency. The evidence of Mr Morris' interactions with both DESNZ and the Commissioner "demonstrate that there is a high likelihood that the complainant is unlikely to ever be satisfied with DESNZ's response. If it had responded to the request of 13 January 2024 the Commissioner considers that further requests would have been forthcoming. To some extent the requests which followed within a 10 day period demonstrate this point. The Commissioner is satisfied that providing a response would have continued to prolong correspondence and an unfair burden to DESNZ".

[3] The Information Commissioner v Devon County Council and Dransfield [2012] UKUT 440 (AAC)

[4] https://ico.org.uk/for-organisations/foi/freedom-of-information-and-environmental-information-regulations/section-14-dealing-with-vexatious-requests/how-do-we-assess-value-or-serious-purpose/

g. there was clear burden of distress caused by previous requests and associated correspondence both generally and for specific staff members especially as regards the use of inappropriate language and unsubstantiated allegations of criminal behaviour or wrong doing.

h. the entrenched position Mr Morris has adopted and his refusal to accept DESNZ's and predecessor departments' repeated attempts to provide explanations to assist his understanding mean that "any value which could be attributed to the request in this case is questionable. The Commissioner notes that there is little, if any, public interest in the request. The unreasonable persistence of the complainant to pursue matters which have been comprehensively addressed has reached the tipping point".

The appeal to the tribunal

25. Mr Morris appealed on the 22 September 2024.

26. As with the complaint to the Commissioner the grounds of appeal do not primarily address DESNZ's reliance on s.14 to refuse the request which is the core issue here.

27. Other than the statement "My FOIA requests are far from vexatious they show how personal data is removed and replaced with legal advice that is not identifiable to me". The grounds focus on a myriad of allegations and points relating to matters outside of the scope of this s.14 decision concerning previous subject access requests and use of section 40 of FOIA in relation to his concerns relating to his historic compensation settlement.

ICO response

28. On the 23 October 2024 the Commissioner responded to Mr Morris' appeal.

29. The Commissioner reviewed the papers and the appeal documentation and confirmed he opposes the appeal and stands by the DN submitting that "in all the circumstances of this case the requests were vexatious".

Reply by Mr Morris to the ICO Response

30. On the 28 October 2024 Mr Morris replied in writing to the Commissioner's response to the appeal.

31. Over four pages Mr Morris covers in length various arguments and points relating to a variety of matters including his settlement payment as well as concerns regarding the use of s.40 of FOIA.

32. As regards the core issue of this appeal of vexatiousness Mr Morris sets out the following three points:

a. "It is for the Tribunal to decide if my requests as seen in DN paragraph 4 are vexatious, giving the fact Ian McKenzie and William Rickett are blatant liars and knew it"

b. "The question is this; why did Rachel Sandby Thomas (4) uphold that I was vexatious for continually quoting (8) R(CR)1 01 a reported UTT decision that read £50,000? We have to remember she has a brilliant legal mind. She has two statements in front of her, one from Ian McKenzie DESNZ that (a) "David Morris is a vexatious correspondent" and a request for a review by me stating (b) "David Morris is not vexatious and Ian McKenzie DESNZ is a liar". One statement is true and therefore personal data, one statement is untrue and therefore information held. If it is established that section 40(1) is being applied to her letter (4) then she has redacted (b) "David Morris is not vexatious and Ian McKenzie is a liar" as this is personal data, true and is absolutely forbidden under section 40(1) from being provided as it is true, and agreed with (a) "David Morris is a vexatious correspondent" because this is information held and untrue and must be provided."

c. "We can also guarantee the DESNZ have decided I am vexatious as per section 40(1) in so far as you can never give the correct decision on whether someone is vexatious whilst applying section 40(1) FOIA as this amounts to personal data that is exempt. However, this does not apply to information held that is incorrect".

The relevant law

33. The relevant provisions of FOIA are set out below:

1 General right of access to information held by public authorities

(1) Any person making a request for information to a public authority is entitled—

(a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and

(b) if that is the case, to have that information communicated to him.

(2) Subsection (1) has effect subject to the following provisions of this section and to the provisions of sections 2, 9, 12 and 14.

...

14 Vexatious or repeated requests.

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

(2)Where a public authority has previously complied with a request for information which was made by any person, it is not obliged to comply with a subsequent identical or

substantially similar request from that person unless a reasonable interval has elapsed between compliance with the previous request and the making of the current request.

...

58 Determination of appeals

(1) 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.

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

34. The Upper Tribunal and the Court of Appeal provided guidance on applying section 14 in the **Dransfield** decisions ([2012] UKUT 440 (AAC) and [2015] EWCA Civ 454).

35. The summary of the principles in **Dransfield** set out below is adopted from the judgment of the Upper Tribunal in **CP v Information Commissioner** [2016] UKUT 427 (AAC). Where the Upper Tribunal held that the purpose of section 14 must be to protect the resources of the public authority from being squandered on disproportionate use of FOIA. That formulation was approved by the Court of Appeal subject to the qualification that this was an aim which could only be realised if 'the high standard set by vexatiousness is satisfied' (para 72 of the CA judgment).

36. The term 'vexatious' in section 14 should carry its ordinary, natural meaning within the particular statutory context of FOIA (para 24). The test is not whether the requestor is vexatious but whether the request is vexatious.

37. Annoying or irritating requests are not necessarily vexatious, they may be but one does not automatically follow the other. Given that one of the primary purposes behind the creation of the FOIA regime was to enable a qualified right of access for the public to be able use to hold public authorities to account, it is conceivable that some recipients would find valid requests fulfilling that very purpose both irritating and annoying.

38. The guidance of the Commissioner on vexatiousness takes the view that the starting point should be whether the request is likely to cause distress, disruption, or irritation without any proper or justified cause (with the main emphasis on the issue of appropriate and proper justification (or not)).

39. Four broad issues or themes were identified by the Upper Tribunal as of relevance when deciding whether a request is vexatious. These were:

> (a) the burden (on the public authority and its staff in terms of the previous course of dealings between the individual requester and the public authority in question. In particular, the number, breadth, pattern, and duration of previous requests may be a telling factor.);
>
> (b) the motive (of the requester, because whilst FOIA does not require any specific reason for making a request, the question of the underlying rationale or justification of the request is essential context in considering vexatiousness);
>
> (c) the value or serious purpose (of the request, is there an objective public interest in the information sought); and
>
> (d) any harassment or distress (of and to staff such as by obsessive conduct and the use of intemperate language or the making of unsubstantiated allegations of criminal behaviour or behaviour which is extremely offensive).
>
> These considerations are not exhaustive and are not intended to create a formulaic checklist.

40. In assessing vexatiousness, it is necessary to consider all the relevant circumstances in order to reach a balanced conclusion. A broad holistic approach must be taken, the motive and the value of the request are important but not the only factors to be weighed up. Public interest cannot act as a 'trump card'. Rather, the public interest in the subject matter of a request is a consideration that itself needs to be balanced against the resource implications of the request, and any other relevant factors.

41. As set out in paragraph 35 of IC v Dransfield [2012] UKUT 440 (AAC) (28 January 2013):

> "... it is important to bear in mind that the right to information under FOIA is a significant but not an overriding right in a modern democratic society. As has already been noted, it is a right that is qualified or circumscribed in various ways. Those restrictions reflect other countervailing public interests, including the importance of an efficient system of public administration. Thus section 14 serves the legitimate public interest in public authorities not being exposed to irresponsible use of FOIA, especially by repeat requesters whose inquiries may represent an undue and disproportionate burden on scarce public resources. In that context it must be relevant to consider the underlying motive for the request. As the FTT observed in *Independent Police Complaints Commission v Information Commissioner* (EA/2011/0222) (at paragraph 19): "Abuse of the right to information under s.1 of FOIA is the most dangerous enemy of the continuing exercise of that right for legitimate purposes. It damages FOIA and the vital rights that it enacted in the public perception. In our view, the ICO and the Tribunal should have no hesitation in upholding public authorities which invoke s.14(1) in answer to grossly excessive or ill-intentioned requests and should not

feel bound to do so only where a sufficient number of tests on a checklist are satisfied.""

42. Ultimately the question is whether a request was a manifestly unjustified, inappropriate, or improper use of FOIA.

The role of the tribunal

43. The tribunal's remit is governed by section 58 FOIA. This requires the tribunal to consider whether the decision made by the Commissioner is in accordance with the law or, where the Commissioner's decision involved exercising discretion, whether he should have exercised it differently.

Evidence

44. By way of evidence and submissions we had the following, all of which we have taken into account in making our decision:

    a. A bundle of open documents, which includes the decision notice, the appeal, and responses amongst other documents.

    b. Oral submissions from Mr Morris.

45. The Tribunal is particularly grateful for the dedicated and sincere approach taken by Mr Morris in addressing the Tribunal at length. He showed a mastery of the open documentation bundle that belied its significant size and complexity. His tenacious but polite manner was noteworthy and appreciated.

46. However, the majority of Mr Morris' submissions focused on matters other than the core issue of vexatiousness. This included submissions on:

    a. the financial discrepancy in Mr Morris' historic compensation payment,

    b. The alleged use by Public Authorities of the s.40 FOIA provisions on personal data as a loophole to avoid their s.16 duties to provide advice and assistance in order to be unhelpful and prevent anyone receiving any information,

    c. various allegations of textual inaccuracy and/or falsification of records by particular officials or staff,

    d. unsubstantiated assertions as to the character of particular individuals, including allegations of dishonesty, and

    e. arguments concerning Mr Morris' personal subjective interpretation as to what the legal terms 'payment into court' and 'out of court settlement' mean.

47. Mr Morris started his submissions by stating his belief that the authority of Dransfield is "wrong and has got to be wrong, so all the decisions are wrong and this

is a direct challenge". He elaborated on this towards the end of his submissions where he set out that:

a. He doesn't accept the decision notice "at all".

b. That he believes his requests were all "absolutely perfect" and that DESNZ decided they were vexatious because they are attempting to execute a cover-up and so will do anything not to disclose information.

c. That the Commissioner did not realise what was going on as regards the alleged misuse of the provisions in s.16 and s.40 FOIA by DESNZ to "give as much wrong information as they can" and so "of course [the Commissioner] has to go against everything in the request".

48. Mr Morris did specifically clarify during the hearing that:

a. He did not consider that as regards the vexatiousness question under s.14 of FOIA that the decision notice was wrong in law nor that the Commissioner should have exercised any discretion differently. He stressed his appeal was focused on the actions of DESNZ not the Commissioner. He stated that the point of law that the Tribunal should consider is the use of s.16 and s.40 by Public Authorities as DESNZ has used those provisions to take rights away and be deliberately unhelpful.

b. He accepted that he had made a significant number of information rights requests over the years all related in some way to his compensation settlement, including sending over 40 emails in January 2021 alone as regards previous requests. Stating that this was necessary because "I could not get the information otherwise", "... they took no notice of subject access requests" and that "many requests were completely ignored". He alleged that in relation to one of the many documents included in the open bundle it had taken him over 20 requests to different authorities till he was provided with a redacted copy in 2016.

c. In relation to the information that the relevant requests specifically relate to he "could give or take that information". The point of his appeal was that it was important for "all to know" how DESNZ operates 'to redact every ounce of truth'.

Findings of fact

49. We make the following findings of fact based on the evidence before us on the balance of probabilities.

50. Mr Morris has, over several years, actively exercised his legal rights at scale, particularly in relation to FOIA and the subject access right under the Data Protection Legislation. The central theme of which has always been the financial discrepancy in Mr Morris' historic compensation payment. These requests cover the same or very

closely related issues repeatedly, with requests being made in quick succession and often in an overlapping manner (as is the case with the five requests that are the subject of this appeal). This has inevitably created a significant volume of work for DESNZ and its predecessors over an extended period.

51. Mr Morris in the correspondence related to his requests used intemperate language and has made numerous allegations of criminal conduct including terms such as ”murderers”, and “you will all be jailed”. As well as making unsubstantiated accusations that DESNZ officials committed “fraud, deceit, malfeasance in public office, theft of medical records, possible mass murder and GBH”.

Discussion

52. Although the four broad issues or themes identified by the Upper Tribunal in **Dransfield** are not exhaustive and are not intended to create a formulaic checklist, they are a helpful tool to structure our discussion, although some elements do not fit neatly under one heading. In adopting this structure, we have taken a holistic approach, and we bear in mind that we are considering whether or not the request was vexatious in the sense of being a manifestly unjustified, inappropriate or improper use of FOIA.

Burden

53. On this element the number, breadth, pattern and duration of the FOIA requests and related correspondence are relevant to take into account in assessing the question of misuse.

54. The five requests that are the subject of this appeal were all made within the space of 12 days, all before the first request was answered. The gaps between these five requests were 1 day, 4 days, 2 days and 1 day respectively. All of the requests speculatively seek alleged “hypothetical legal professional privileged advice” that relates to redacted documents disclosed as a result of previous requests or relates to correspondence associated with Mr Morris’ long history of requests regarding his compensation settlement.

55. We accept that even considering these five requests alone placed a significant burden on DESNZ given the considerable overlap between them and the rapid succession in which they were issued, and especially taking into account the cryptic and unclear subject of the requests. It is accepted that Mr Morris has been unreasonably persistent and that the ongoing burden these requests have placed on DESNZ has distracted staff from their duties.

56. Additionally, to the extent that the requested information is information that has already been withheld under previous requests (on the basis of being Legally Professionally Privileged material) these requests extend the burden on DESNZ. This is because the requests that are the subject of this appeal represent an improper attempt to revisit the unsuccessful outcomes of previous requests by a backdoor.

Motive

57. Mr Morris' campaign of requests is motivated both by his private interest in relation to his belief there were errors and a conspiracy in relation to the handling of his settlement claim, but also the public interest he believes exists in exposing these matters. We agree with a previous Tribunal that noted Mr Morris "has diligently and determinedly pursued a line of enquiry in which he has genuine belief but which, in truth, is based on an erroneous analysis of the events surrounding the settlement of the litigation"[5].

58. However, DESNZ has repeatedly over the years provided detailed and comprehensive responses to his questions and concerns about the discrepancy in the compensation settlement and provided detailed breakdowns of the monies paid etc. Mr Morris appears to have adopted an entrenched position meaning he is not able to accept any of the cogent and persuasive explanations provided. Consequently, he has adopted an iterative process of making further incidental requests about (or related to) matters previously unsuccessfully requested. Which specifically reminds us of the Upper Tribunal's description in Dransfield of "vexatiousness by drift", where successive requests become disproportionate to the original aim.

59. We agree with the Commissioner that Mr Morris is unlikely to ever be satisfied with any response provided by DESNZ, and that had a response been issued to the requests that are the subject of this appeal, further requests would almost certainly have been forthcoming along with associated prolonged correspondence.

Value

60. Mr Morris submits that there is a public interest in disclosure in order to expose a conspiracy by DESNZ. However, we are unable to identify how the disclosure of the specific information in the requests that are the subject of this appeal would achieve this, even if the precise subject information of the request could be identified and located. When considered objectively, there is no reasonable foundation for thinking that the information sought would be of value to Mr Morris or the public at large. This point is reinforced by Mr Morris' submission at the hearing that he 'could give or take' the information requested.

61. We are also mindful of the fact that to the extent that these requests relate to material already successfully refused in previous requests they amount to an attempt to inappropriately relitigate a decision outside of the proper appeal process and so must be considered to have limited value accordingly.

Harassment or distress

62. We accept that each of the requests made, were themselves set out in a moderate tone. However, the same cannot be said of the wider correspondence Mr Morris has engaged in with DESNZ and others. Whilst it is far from being the most abusive or

[5] The First-tier Tribunal appeal [EA/2013/0072] paragraph 9

distressing correspondence a public authority has ever had to deal with, it nonetheless makes a modest contribution to vexatiousness.

Conclusion

63. One of the main purposes of FOIA is to provide citizens with a qualified right of access to official information and thereby a means of holding public authorities to account. It is important for that qualified right of access that vexatiousness is a high hurdle.

64. Having considered the matter carefully and in the round, we find that these requests did reach the high hurdle of vexatiousness. The burden of these requests looked at in the context of the entire course of dealings was disproportionate. We accept that Mr Morris' communications will have caused some individuals distress and that this points towards vexatiousness. Taking into account the motive and value of the requests, we consider that they were an inappropriate and improper use of FOIA.

65. We find that DESNZ was entitled to rely on s.14 FOIA, we also find that the Commissioner's decision notice was in accordance with the law and did not require any discretion to be exercised differently. We therefore dismiss the appeal.

Signed Thomas Barrett Date: 8/4/25