



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

**Case No. EA/2013/0046**

**ON APPEAL FROM:**

**The Information Commissioner's  
Decision Notice No: FS50464697  
Dated: 7 February 2013**

**Appellant: ROSS STRAKER**  
**1<sup>ST</sup> Respondent: INFORMATION COMMISIONER**  
**2<sup>ND</sup> Respondent: COMMISSIONER OF METROPOLITAN POLICE**  
**Heard at: FLEETBANK HOUSE, LONDON**  
**Date of hearing: 25 OCTOBER 2013**  
**Date of decision: 7 NOVEMBER 2013**

**Before**

**ROBIN CALLENDER SMITH**  
Judge

and

**JACQUELINE BLAKE and NIGEL WATSON**  
Tribunal Members

**Attendances:**

For the Appellant: Mr Ross Straker in person, assisted by Mr Ian Straker  
For the 1<sup>st</sup> Respondent: written response by Clare Nicholson, Solicitor for the  
Information Commissioner  
For the 2<sup>nd</sup> Respondent: Mr Joseph Barrett, Counsel instructed by the Commissioner  
for Metropolitan Police

**Subject matter:**

**FOIA**

Vexatious or repeated requests s.14

**Cases:**

*Information Commissioner v Devon County Council and Alan Dransfield*[2012]UKUT440 (AAC).

**DECISION OF THE FIRST-TIER TRIBUNAL**

The Tribunal upholds the decision notice dated 7 February 2013 and dismisses the appeal.

**REASONS FOR DECISION**

Introduction

1. The Appellant is Mr Ross Straker. In April 2009 his German Shepherd dog went missing from his family home.
2. The Appellant became convinced that the dog was stolen by an ex-girlfriend, a woman whose father the Appellant believes is employed at the Metropolitan Police Service (MPS).
3. The Appellant believes that there has been some kind of conspiracy over a four-year period involving his dog ("Wooky") and, determined to uncover what may have happened within the MPS and what has happened to his pet, wrote to and telephoned the MPS as well as other organisations on multiple occasions.

## The request for information

4. On 29 March 2012, the Appellant wrote to MPS and requested information in the following terms:

I would like to ask to see the photographic evidence of the dead dogs found at Longcross met police kennels and I also still await the confirmation of the chip number supplied to you which is now chipped to my beloved dog who is recorded as stolen from Kent and who was sent from Longcross kennels to Battersea on the 12th May 09 (ref 09/02203 DBCH) and illegally rehomed by Battersea as your officers at Croydon failed to call the dog warden and then took my handable dog from Croydon to a closed kennel as confirmed by [police officer A ] of Wandsworth. This officer has already wished he were never involved which is very interesting, clearly taking handable dogs from a Police station is against new guidelines and therefore this officer may need to be dismissed.

Obviously this investigation should have been dealt with by Scotland Yard in the first place as advised by officers within Croydon and not myself or maybe even passed to the Home Office direct.

As for legal action as you deputy Commissioner has advised, this makes total sense although I am sure to go front page news and possibly ruin many reputations which I am sure would not be very wise.

I have not yet been reunited with my beloved dog zd34 which was handed into Croydon police on the 2nd May 09 by a [named individual A] whom gave my dog a false name as I have a photo of him sent by [police officer A].

I hope that the [Commissioner of Metropolitan Police] is doing his best to reunite me with my dog and you are personally making him aware of my requests.

I would advise the Metropolitan police to therefore meet my request by reuniting me with my dog and in doing so also meet Her Majesty's the Queen's wish.

Obviously had I been reunited with ZD34 [the Appellant's dog] at Battersea on the correct date, there would be no need to keep raising these pertinent questions. In fact you could say that had I not been sent a Dangerous Dog chipped to the Met police the serious animal welfare issues could still be present at Longcross kennels.

5. The MPS responded on 19 April 2012. It stated that it held no photographic evidence of dead dogs found at Longcross Kennels. It refused the request about the specified microchip number under s.21 FOIA (information accessible to applicant by other means) as it stated the

information about this had already been disclosed in response to previous requests.

6. In a response to this the Appellant made a further request as follows asking for:

....the report proving that a senior member of the Met police OPS department fully investigated the allegations of the theft of my dog by a policeman.

I would also like to point [out] that the CCTV was said to have been viewed in the investigation, obviously this would further proved that met police officers have lied and conspired badly. As I have a clear photograph of my dog a German Shepherd Dog in the Met police kennel Longcross.

7. Following an internal review the MPS wrote to the Appellant on 3 September 2012. In the review the MPS altered its position and stated that the requests were being refused under section 14 of the Act (vexatious or repeated requests).

#### The operation of s.14 FOIA

8. Under section 1(1) of FOIA a person who has made a request to a 'public authority' for information is, subject to other provisions of FOIA:

- a. entitled to be informed in writing whether it holds the information requested (section 1(1)(a) FOIA); and
- b. if it does, to have that information communicated to him (section 1(1)(b) FOIA)

9. Section 14(1) of FOIA provides:

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

#### The complaint to the Information Commissioner

10. In the course of the Commissioner's investigation the MPS sought

formally to rely on s.14 FOIA.

11. On 7 February 2013 the Commissioner issued his Decision Notice in which he recorded his finding that both requests were vexatious such that the MPS was entitled to refuse them relying on section 14 FOIA.

12. The Commissioner found, amongst other things, that:

- Notwithstanding that the MPS had sometimes provided the Appellant with inconsistent responses to his previous requests for information, the requests in question could fairly be seen as obsessive given that the underlying issues surrounding the Appellant's concerns about his missing dog and the MPS' alleged involvement had been the subject of several investigations (both internal to the MPS and external). Further the Appellant appeared unwilling to accept what he had been advised in response to other requests for information or pursue such issues through a more appropriate course.
- The Appellant's request could be seen to harass the public authority given the nature of the Appellant's allegations contained in his previous correspondence and repeated in the body of the email containing the requests for information in dispute in this case. He believed that MPS staff would be distressed.
- Compliance with the request would impose a significant burden on the MPS in terms of expense and distraction given that the latest requests for information were made almost three years after the Appellant's dog went missing, and because the Appellant sought to

correspond with the MPS about this matter at intervals during this time. In addition the Appellant had exhausted the MPS's internal complaints mechanisms as well as had complaints dealt with by the Independent Police Complaints Commission (IPCC).

- In all the circumstances, given that the Appellant had made similar requests previously and been through complaints procedures which had not upheld his complaints, the request did not appear to have any serious purpose or wider value to the public.

#### The appeal to the Tribunal

13. The Appellant appealed against Information Commissioner's decision on the basis that it was wrong to refuse his information requests of the grounds that he was vexatious.

14. His grounds of appeal set out his narrative of the history of the lengthy and complex factual background surrounding the loss of his dog.

15. In particular he states:

It needs to be clear that I am attempting to discover the truth about what has happened to my dog. In this respect there has been an extraordinary succession of inconsistencies in the information given to me by both the Metropolitan and Kent police. This is not just one inconsistency ....but a whole series of inconsistencies which would worry any right-minded member of the public. As a result I continue to seek the truth in this matter.

16. He makes the following additional general points about the Decision

Notice:

- I have good reason to persevere with my investigations so it is not obsessive.
- My requests should not distress staff as they can also see the problems that I have outlined.
- It would be simple to answer my questions without expense by showing me the CCTV, which must have been retained in case it is wanted in court. Should it have been destroyed that would certainly raise eyebrows.
- Also to give me the chip details about current supposed ownership of [the dog] held on police computer but not at present available to me. This would be relatively simple.
- The value will be to return Wooky to his rightful owner and to deal with any questions of honesty of certain police officers.

17. At the appeal hearing the Appellant maintained his reliance on the reasonableness of his continuing enquiries – seeking to rely on the chronology of events as seen through his eyes - and rejected suggestions that his information requests had become vexatious.

#### The questions for the Tribunal

18. The Tribunal has to consider whether, in the light of the Appellant's previous information requests over a lengthy period, the MPS was entitled to refuse to deal with his two final information requests on the basis that the Appellant was vexatious within the meaning of s.14 FOIA and with guidance from the developed case law from the Upper Tribunal of *Information Commissioner v Devon County Council and Alan Dransfield - [2012] UKUT 440 (AAC) 4*.

19. The Upper Tribunal emphasised [45] the importance of adopting an “holistic and broad approach to the determination of whether a request is vexatious or not.” It added:

It may be helpful to consider the question of whether a request is truly vexatious by considering four broad issues or themes - (1) the burden (on the public authority and its staff); (2) the motive (of the requester); (3) the value or serious purpose (of the request) and (4) any harassment or distress (of and to staff). However, these four

considerations and the discussion that follows are not intended to be exhaustive, nor are they meant to create an alternative formulaic check-list. It is important to remember that Parliament has expressly declined to define the term "vexatious".

20. It cautioned against a too rigid approach to deciding whether a request is 'vexatious', noting that it is an 'inherently flexible concept which can take many different forms' [28] and that

[t]he question ultimately is this - is the request vexatious in the sense of being a manifestly unjustified, inappropriate or improper use of FOIA? [43].

### Evidence

21. The Tribunal heard evidence from Mr Nigel Shankster, a Senior Information Manager in the Metropolitan Police Service (MPS). His responsibilities included day to day management of FOIA processes across the MPS, staff management and responding to the Information Commissioner in Section 50 FOIA complaint cases. He had worked for the MPS for 37 years, five of which had been in his current role. Before that, he was a police Chief Inspector.
22. Mr Shankster adopted his written witness statement (part of which is produced below). He was not cross-examined on its substance or content by the Appellant.
23. In terms of the context of the Appellant's requests he stated that on 7 May 2009 Mr Straker's mother had reported the theft of the dog from her home address on 29 April 2009.
24. The home address was in Kent Constabulary area and the alleged crime was dealt with by officers from that force. That was relevant because Kent Constabulary had also been subjected to a number of accusations, complaints and requests for information from the Appellant.

On or around 1 May 2009, an Alsatian cross-breed dog was handed into Croydon Police Station. Because of the dog's aggressive tendencies it was transferred to private kennels on 2 May (believed to be Longcross, Chertsey).



From there, the dog was taken to Battersea dogs and cats home. On 4 May, Battersea contacted Mr Straker to let him know that a dog resembling the description....was held by them.

On 23 June 2009, Mr Straker wrote to the MPS complaining about the way in which the police at Croydon dealt with the incident regarding [the dog]. Between that date and 27 July various letters were exchanged between the MPS, Mr Straker and his local Member of Parliament, Sir John Stanley. Mr Straker's complaint was investigated and found to be unsubstantiated. On being informed of this, Mr Straker appealed to the Independent Police Complaints Commission (IPCC). The IPCC conducted a review but concluded that the appeal could not be upheld.

On 19 July 2010, a further formal complaint against police was made by Mr Straker. This complaint was reviewed by Detective Chief Inspector Howell from the MPS Directorate of Professional Standards (DPS). DCI Howell concluded that the matter had already been investigated, reviewed by the IPCC and that there was nothing further that could be done.

25. Mr Shankster also dealt with the chronology of the Appellant's information requests as follows:

1. FoIA 2009070006710, received 28 July 2009.

I want to view the CCTV footage of an Alsatian dog which I believe was brought into Croydon police station on or about 1, 2 May 2009 and released to [A] on the following day.

I want to see footage outside and inside the station as he was brought in and as he left and any footage internally as he was taken from the police kennels.

This request was responded to with a Section 40(5) neither confirm nor deny response on 28 July 2009.

2. FOIA 2009100001012, received 29 September 2009

We are requesting to see CCTV footage and any other information held manually, on a database or email of a dog being brought to Croydon Police Station at or about 1800hrs on 2nd May 2009.

We are only interested in the dog which we believe may be our dog and which was stolen from our property on April 29, 2009. He is of a very large build and would be easily recognised. We are not interested in any people who may also be shown in the footage and we are content if those people are obscured.

MPS responded with no information held on 24 November 2009.

3. FoIA Internal Review 2009110002140, received 3 November 2009,

Internal reviewed varied the original decision (2009100001012 Item 8) to no information held in respect of CCTV and in regard to the handing in of a dog, provided a redacted copy of the relevant Dog Book entry at Croydon.

4. FoIA Complaint to Information Commissioner (ICO Ref: FS50276318)

MPS replied to ICO on 5 February 2010, no information held and following ICO contact with complainant the case was closed without recourse to a Decision Notice.

5. FOIA 2010060003790, received 20 June 2010

I would like information on the details of the raid by Met Police at Longcross Kennels in September 2009, detailing the list of dangerous dogs taken out and sent to Mink Farm kennel for rehoming.

MPS responded on 7 July 2010, with 'no information held'. When the MPS moved dogs from Longcross Kennels in October 2009 none were sent to Mink Farm Kennels.

6. FOIA 2010100003582, received 21 October 2010.

I request the information of a German shepherd dog ZD34 which the status dog unit handled back in 2 May 2009. I request the transfer paperwork from Longcross kennel to Battersea on 12 May and the paperwork which followed up on 16 May. I also want any other paperwork relevant to this dog ZD34.

MPS responded on 16 November 2010, with 'no information held'.

7. FoIA 2011010003954, received 26 January 2011

I request all documentation that the status dog unit holds on ZD34 which was transferred to Battersea on 12 May 2009 including two photographs taken at Longcross Kennel. I also ask for any other relevant information held in regard to ZD34. I also seek all relevant information on the raid in which the status dog unit was involved at Longcross kennel on 15 September 2009.

MPS responded on 18 March 2011: Information supplied, subject to Section 40(2) exemptions consisting of:

- i. An MPS request form regarding the transfer of a dog to Battersea dogs and cats home.
- ii. Two pages of dog transfer form belonging to Battersea dogs and cats home.

- iii. Two pages, screen shots, database belonging to Battersea dogs and cats home.
  - iv. One page 'incoming process sheet' Battersea dogs and cats home.
  - v. Copy lost/found or seized dogs' book at Croydon Police Station.
  - vi. Two pages of internal MPS forms for dangerous dogs and the transfer thereof.
8. FoIA 2012010001048 , received 9 January 2012

I request all information held on disc form, email or paper files relating to the Raid on Longcross Kennels on the 15th September 2009. I also request information on how many people if any were taken to court for cruelty to animals at Longcross Kennels. I also request the information as to who ended the police contract with Longcross kennels and how much that contract was worth and how long the Metropolitan police had a contract with Longcross Kennels. Can the Met police also confirm whether or not any animal welfare issues were found.

9. FoIA 2012010001048, received 10 January 2012

I request all information held by the Metropolitan Police on the raid by the Met police at Longcross kennels, Chertsey, Surrey. I request all information held by email, photographic and the report carried out on that day 15th September 2009.

MPS responded on 30 January 2012 with Section 12, excess cost, also applied S16 in regard to advice and assistance.

10. FoIA 2012010001048, received 31 January 2012

Please can you supply me with a copy of the warrant relating to the raid on Longcross kennels by the Met police status dog unit on 15 September 2009.

MPS responded on 16 February and supplied a copy of the Warrant, subject to S40 (2) exemption.

11. FoIA 2012020003101, received 18 February 2012

Please could you also confirm whether any animal welfare issues were found at Longcross kennels on 15 April 09 and also supply me with the report of that raid by the met police on Longcross kennels. 2. I also request all information relating to chip number 985121014554552. This number relates to ZD34, taken by [A] from Croydon to Longcross Kennels on 2 May.

MPS responded on 29 March 2012 and supplied information pertinent to part 1 of the request, Longcross Kennels, as below subject to Section 31(1), 40(2) and 43(2) Exemptions. As for part 2, the microchip, this was refused by virtue of Section 21 (previously supplied).

The supplied information consisted of a three page summary of the operation at Longcross kennels in redacted form.

12. FoIA 201202040001874, received 29 March 2012

I would like to see the photographic evidence of the dead dogs found at Longcross met police kennels and 2. Am still awaiting confirmation of the chip number supplied to you which is now chipped to my beloved dog who is recorded as stolen from Kent.

MPS responded on 19 April 2012 with 'No information held in regard to photographic evidence' and for the microchip, applied Section 21, previously supplied. (see (7) FoIA 2011010003954 ).

13. FOIA 2012070002420, received 18 July 2012

MPS responded on 3 September 2012 and varied the earlier response (201202040001874) to vexatious, S14 (1).

### Conclusion and remedy

26. The Tribunal has reminded itself of the approach suggested by the Upper Tribunal in *Dransfield* and has not sought to apply a formulaic - but rather an holistic – view to this appeal and the issues it raises.

27. The Tribunal accepts (as did the MPS at the appeal hearing) that the loss of a dearly-loved dog – and the search for how and what may have happened to it – is something that can properly engage a bereaved owner in a completely legitimate series of enquiries.

28. Those enquiries, however, need to be proportionate to the aim to be achieved: finding out what happened to his dog.

29. In this case the Tribunal finds that the Appellant has lost his sense of proportion in a quest that has now gone on for over three years. His focus has become disproportionately and inappropriately fixed on wrong-doing and conspiracy theories.

30. Looking first at the burden on the public authority and its staff, having regard to the number, breadth, pattern and duration of requests at issue, the continuous requests reached the point of vexatiousness certainly by – and probably before – the refusals in this appeal given the resources occupied. These include two public complaints with one appeal, not upheld, to the IPCC; 10 FOIA requests: two Freedom of Information Internal reviews; 2 FOIA complaints and 20 formal letters. There is an additional “iceberg” element in the numerous emails, telephone calls and additional letters from MPS to the Appellant.
31. In terms of the Appellant’s motive, what started as a search for information about a missing dog has metamorphosed into a series of allegations of widespread criminal conspiracy to steal the dog involving the MPS, Kent Police, the IPCC, Battersea Dogs and Cat’s Home and Longcross Kennels. The Appellant’s continuous FOIA requests have become obsessive, disproportionate and excessive.
32. We remind ourselves of Upper Tribunal Judge Wikeley’s observation in *Dransfield* [34]
- .... the proper application of section 14 cannot sidestep the question of the underlying rationale or justification for the request. What may seem to be an entirely reasonable and benign request may be found to be vexatious in the wider context of the course of dealings between the individual and the relevant public authority. Thus vexatiousness may be found where an original and entirely reasonable request leads to a series of further requests on allied topics, where such subsequent requests become increasingly distant from the requestor’s starting point.
33. Those observations above characterise the Appellant’s conduct in this matter.
34. In terms of value or serious purpose in relation to requests, the degree of repetition takes the matter beyond what may have begun as the Appellant’s serious purpose. This is because the tone of much of the Appellant’s correspondence in the course of these requests became quickly accusatory and contained implied threats against those who he considered to be involved in his imagined conspiracy. Officers were

accused of lying, serious dishonesty was alleged against the MPS, MPS staff were accused of manipulating police officers, a detective inspector was accused of “lying over the telephone” and trying to “muzzle” Sir John Stanley MP, another detective inspector is accused of lying, a member of the MPS is accused of letting his daughter steal his dog and so on.

35. For all these reasons the Tribunal is satisfied that the MPS and the Information Commissioner arrived at the correct conclusion that the Appellant, in the information requests which are the subject of this appeal, had crossed the line from reasonable enquiries into a pattern of vexatious requests.

36. Our decision is unanimous.

37. There is no order as to costs.

Robin Callender Smith

Judge

7 November 2013