



**FIRST-TIER TRIBUNAL
GENERAL REGULATORY CHAMBER
Information Rights**

Tribunal Reference: EA/2013/0072
Appellant: David Morris
Respondent: The Information Commissioner
Judge: NJ Warren

DECISION NOTICE

1. More than 20 years ago Mr Morris had a serious industrial accident when he was working as a coal miner. He received compensation but this was very much reduced by the statutory reduction for repayment of social security benefits.
2. Mr Morris has two grievances arising from this deduction which was made some 17 years ago.
3. First, he considers that there has been some fiddling of the figures as to whether the total compensation payment was £50,000 or £50,157.92. He asserts that civil servants have been untruthful and devious about this.
4. There is nothing in this point. The true position is explained in the decision notice of the Information Commissioner (ICO) dated 19 March 2013 at paras 6-10. Originally, the solicitors involved agreed a settlement figure of £50,000 subject to the statutory deduction. The deduction is calculated in a certificate given by the Secretary of State for Work and Pensions. In its usual form, it gives a running total over the future weeks. In Mr Morris' case another benefit payment was made after the agreement but before its implementation. This had the effect of increasing the deduction by £157.92. The settlement figure was increased accordingly in order to preserve the net figure of compensation which Mr Morris was to receive.

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5. Mr Morris' second concern is whether the statutory deduction was wrongly calculated because it took in to account a redundancy payment. It is true that at some stage, Mr Morris' claim was formulated to include a claim for loss of a redundancy payment. It is also true that, at the relevant time, Section 81(3)(j) Social Security Administration Act 1992 exempted from the statutory deduction "any redundancy payment falling to be taken into account in the assessment of damages...". That would appear to refer to a payment separate from the actual damages payment. Nevertheless, I need not investigate that point because the question of whether the deduction was correct fell to be decided by Social Security Tribunals and Medical Appeal Tribunals. Mr Morris exhausted his remedies there some time ago.
6. The parliamentary ombudsman has declined to intervene.
7. In the last few years Mr Morris has made a number of requests for information to the Department for Business Innovation and Skills (DBIS). These are summarised in the appendix to the ICO decision notice. Some of them contain very unpleasant language. (See the examples at pages 46-50 in the ICO's decision notice).
8. On 3 August 2012 Mr Morris wrote to DBIS with a request for information in three parts:-
 - (a) He wanted to know whether a letter sent by the former British Coal's solicitor on 15 April 1996 had been altered, forged or mistakenly recorded or similar.
 - (b) He wanted to know how much money was actually in court on 11 April 1996.
 - (c) He also wanted to know what information DBIS held regarding the dismissal of the solicitor handling his case on behalf of British Coal.
9. The second of these requests has been dealt with by DBIS under the Data Protection Act on the ground that it is a request from Mr Morris for access to his own personal data. There is no real challenge to that conclusion. The Tribunal has no jurisdiction over the handling of such a subject access request. The Tribunal is confined to the handling of requests under the Freedom of Information Act (FOIA).

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10. There is some room for argument about the first part of the request. However, assuming in Mr Morris' favour that it amounts to a valid request for information, DBIS have refused both heads (a) and (c) of the request under Section 14 FOIA. The ICO has upheld that refusal on the ground that the requests are vexatious and Mr Morris has appealed to the Tribunal. The ICO has applied for the case to be struck out on the ground that it has no reasonable prospects of success.
11. I have asked Mr Morris for his comments and I have particularly asked him to explain what he hopes to gain from the proceedings.
12. The ICO decision notice refers to the ICO's then guidance in respect of vexatious requests. The Tribunal has to consider this case in accordance with the more recent guidance from the Upper Tribunal about Section 14 FOIA.
13. Having reviewed the evidence, it is in my judgement, inevitable that a Tribunal would conclude that these circumstances were such that a public authority was entitled to the protection afforded by Section 14 FOIA. In particular, the length of time for which these requests have continued; the persistent refusal to accept the judgements of other decision makers; and the drift from those proper avenues to making demands under FOIA would, in my judgement, lead any Tribunal to conclude that Mr Morris' request was a misuse of the statute. It would be unfair to the other parties and would do no favours to Mr Morris to permit the proceedings to continue. I therefore strike out the appeal under Rule 8(3)(c).

(Signed on the original)**NJ Warren****Chamber President****Dated 25 June 2013**