



Neutral Citation Number:

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

**Appeal No: EA/2015/0065**

**ON APPEAL FROM:**

**The Information Commissioner's Decision Notice No: FS50558190**  
**Dated: 18 February 2015**

**Appellant: Robert Pickthall**

**Respondent: The Information Commissioner**

**Heard at : Chester Civil Justice Centre**

**Date of Hearing: 6 July 2015**

**Before**

**Chris Hughes**

**Judge**

**and**

**Anne Chafer and Paul Taylor**

**Tribunal Members**

**Date of Decision: 11 July 2015**

**Attendances:**

For the Appellant: in person

For the Respondent: did not attend

**Subject matter:**

Freedom of Information Act 2000

**Cases:**

Information Commissioner v Devon CC and Dransfield 2012 UKUT 440 AAC

**DECISION OF THE FIRST-TIER TRIBUNAL**

The Tribunal upholds the decision notice dated 18 February 2015 and dismisses the appeal.

## **REASONS FOR DECISION**

### **Introduction**

1. Mr Pickthall used to live near Butcher's Stile Playing Fields in the village of Davenham in Cheshire. He told the tribunal that he was concerned about the welfare of vulnerable people who had been his neighbours and how it was affected by anti-social behaviour on an area of open ground between the playing fields and a road. He has pursued this issue with various public bodies over the years.
2. From 2005 Moulton and Davenham Community Safety Action Group (MADSAG) brought together various agencies including two Parish Councils, West Cheshire and Chester Council, local schools and the police as a means of helping the local community address community safety issues such as anti-social behaviour. The group ceased to exist in 2012.

### **The request for information**

3. On 14 August 2014 Mr Pickthall wrote to the Cheshire Constabulary seeking information:-

*“Official records pertaining to the MADSAG Committee prove your force permitted numbers of its different officers including PCSO [name redacted] to sit as members of the Committee, please confirm the names and ranks of each officer. Please provide me copy of all M.A.D.S.A.G. related correspondence created by those officers to include all correspondence sent to and received from other Committee members and their related Agencies, all notes to include officer note book entries.*

*Please provide me copy of all M.A.D.S.A.G. related correspondence your force exchanged with Cheshire West and Chester Council, Weaver Vale Housing Trust Ltd., Davenham Parish Council, Moulton Parish Council 2005-2013.*

*You will be aware the main function of M.A.D.S.A.G. was to protect the Moulton and Davenham Communities from riotous and Anti-social behaviour and as a result your Force retained copies of the Committees [sic] annual logs, please provide me copy of each Log 2005-2013.*

4. The Constabulary responded on 12 September 2014 (bundle page 26-28). It confirmed that the request would require extensive searches, would be burdensome, was without serious value, it referred to the history of previous requests and concluded that the request was designed to harass. It noted that the police force had already advised him that it would not deal with future requests and drew attention to the concept of a vexatious request.
5. In reply Mr Pickthall claimed that he had conducted research showing that MADSAG and the police had massaged down crime figures, he had circulated the research to a range of public bodies and MPs “*shamefully all these trusted servants colluded to suppress my irrefutable evidence*”. The request if granted “*will further prove your former chief constable and other trusted figures having committed malfeasance in public office... yours is a dishonest, corrupt and untrustworthy police force*”. On review the force upheld the decision that the request was vexatious.
6. In considering Mr Pickthall’s complaint the Commissioner reviewed the guidance given in *Dransfield* on the meaning of vexatious and the submissions of the Constabulary. He noted that a search using relevant search terms had located in excess 9,999 emails which would require in excess of 166 hours to review, in addition to examining any other information sources. He noted that Mr Pickthall’s response to the initial decision was not to seek a review but to publish allegations of corruption malfeasance and dishonestly against individual members of the Constabulary (page 7 paragraph 27). He noted that the Constabulary had expended considerable effort in handling Mr Pickthall’s FOIA requests and accepted the time estimate as reasonable. He considered that the request was a “*manifestly unjustified, inappropriate or improper use of a formal procedure*” and that section 14 operated to stop an individual placing an unwarranted drain on the resources of a public body. He upheld the decision of the Constabulary that the request was vexatious.
7. Mr Pickthall’s appeal simply disputed the finding that his request was vexatious and claimed that s77 FOIA applied – that an offence had been committed by the Constabulary of destroying or concealing information which had been requested.
8. In reply the Commissioner relied on his decision notice and pointed out that since reliance was placed on s14(1) FOIA (vexatious request) the Constabulary had refused to identify the information rather than said the information did not exist. The

Commissioner noted (page 17 paragraph 8,9) that the request was one of 36 to the Constabulary and there were numerous requests to the Cheshire West and Chester Council, that Mr Pickthall had made 25 complaints to the Commissioner about the Constabulary and Council and that four adverse decision notices had been issued against him and that one of those decision notices was also subject to appeal. During the hearing Mr Pickthall was directed to para.25 of the Decision Notice which states the same facts; he was asked whether he agreed with these figures and he said that he did. He was then asked, in light of the Commissioner's suggestion that Mr Pickthall was misusing FOIA, whether he could see a proportionality issue. His response was "*absolutely*".

9. Mr Pickthall sought to argue that MADSAG had acted in breach of the Data Protection Act since it was not registered as a data controller. He argued against the existence of s14(1) – he argued that it was not justice. He stated that he had been blacklisted, the provision negated a fair hearing and was unlawful. He was unable to advance any argument against the time estimates put forward for retrieving the information sought. He alleged misconduct against the Constabulary and the Council. He argued the merits of what he perceived as the underlying dispute concerning the use put to a piece of undeveloped land near sheltered housing. He alleged a conspiracy to cover up the unlawful use of the land. In the hearing he admitted that he could not sustain his argument that a s77 offence had been committed. He alleged that if the Chief Constable's mother had lived in the sheltered housing in question, the issues would have been dealt with. He stated "*I would put in another 1000 complaints if it would relieve things*". His approach strongly indicated that he viewed the process of making FOIA requests as a means of putting pressure on a public body rather than a means of obtaining information. He expressed the wish to appeal against other decisions. He alleged that he had made concessions in what he was seeking, he was only seeking a log of incidents reported to MADSAG, however he was unable to substantiate this statement that he had reduced the scope of his request.

### Consideration

10. The tribunal noted that he had made numerous FOIA requests of the Constabulary (36 at 24 November 2014) and the Constabulary's view that he asserted as true things

which had not occurred (page 51), that his conduct had been harassing of members of public bodies, the burden that meeting the request would impose and that he seemed to blur the boundary between truth and fantasy – he retreated from some wild assertions of fact when challenged and maintained others in the absence of any evidence.

11. The Constabulary had fairly characterised the request as vexatious and the reasoning of the Commissioner was sound and based on clear evidence. In the hearing Mr Pickthall demonstrated his obsessive approach and the inability to distinguish fact from fantasy as well as a determination to continue with what is clearly an abuse of a statutory process.
12. The tribunal upholds the Information Commissioner's decision notice and dismisses the appeal.
13. Our decision is unanimous.
14. The tribunal is further satisfied that there may be grounds under The Tribunal Procedure (First-Tier Tribunal) (General Regulatory Chamber) Rules 2009 rule 10(1)(b) for concluding that Mr Pickthall in bringing and conducting this appeal has acted unreasonably. In order to enable this matter to be properly considered the Tribunal directs:-
  - a) The Information Commissioner file details of his legal costs in responding to this appeal within 14 days of the date of this decision and serve a copy of that statement of costs on Mr Pickthall together with any observations he wishes to make on the award of costs.
  - b) Mr Pickthall by 15 August make any representations as to why he should not pay any costs or costs in the sum identified by the Information Commissioner;
  - c) Mr Pickthall by 15 August provide details of his income (including details of his salary and any state benefits and benefits in kind he has received during the last 3 months) and expenditure, including his last 3 months bank statements, details of any other savings, investments or other accounts he has and identify any property he owns with details of purchase price, date of purchase and outstanding mortgage.

[Signed on original]

Date: 11 July 2015

Promulgated 14 July 2015