



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

Tribunal Reference: EA/2013/0150
EA/2013/0151
EA/2013/0173

Appellant: Arnold Martyres

Respondent: The Information Commissioner

Judge: NJ Warren

DECISION NOTICE

A. Introduction

1. These appeals concern three requests for information under the Freedom of Information Act (FOIA) made to the Chief Constable of Cambridgeshire by Mr Martyres. The Information Commission (ICO) has applied for all three appeals to be struck out on the ground that they have no reasonable prospect of success.
2. The Chief Constable and the ICO have both taken the view that the requests are “vexatious” within Section 14 FOIA. The Tribunal, in applying section 14, must follow the recent Upper Tribunal decisions in particular, Dransfield.
3. Mr Martyres’ wife is engaged in high court litigation with her sisters. Some of this relates to ownership of land formerly belonging to her late father. Some of it relates to a dispute in connection with her late mother’s will. In one form or another litigation seems to have been going on for eight years now. Mr Martyres has made a number of complaints to the police alleging the commission of criminal offences by his wife’s opponents in the litigation and by public officials.
4. I need not set out the different requests word for word. They appear together conveniently in the ICO response to the appeal.

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5. Before ruling on the ICO application I invited Mr Martyres to comment on it. I particularly wanted to be sure of his reasons for making the requests. I also wanted to explore the extent to which he disagreed with information from the Chief Constable about the burdens on his staff which resulted from their dealings with him.

B. General

6. I asked Mr Martyres to state precisely those parts of the information from the Chief Constable which he disputed and why. The papers indicate that there can be no doubt that Mr Martyres was well able to respond specifically to that question. His reply, however, is unspecific. He denies allegations about “letters and telephone calls” between the date of his request and his appeal to the commissioner. He says that most of the records submitted are “out of context” and “hearsay”. He complains of misuse of computers by senior police officers.
7. In my judgement it is inevitable that any Tribunal would conclude that there had been a previous series of information requests; that there had been phone calls, two of long duration; and that there were frequent allegations of wrong doing such as fraud and forgery made by Mr Martyres. Those findings would inevitably be part of the background against which a Tribunal would consider each of the individual requests. I now turn to deal with those requests.

C. The Request dated 24 November 2012

8. Six months before the date of this request an Assistant Chief Constable (ACC) had written to Mr Martyres saying that he was aware that that he had made a number of criminal allegations against a variety of individual agencies and public authorities. He said that he understood that none of the police investigations had revealed any criminal behaviour and that allegations made against two public servants were deemed to lack any substance. Officers had considered bringing proceedings against Mr Martyres for wasting police time.

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9. In his request Mr Martyres asked for all the legal documents emails, letters, contemporaneous telephone notes and internal communications relied upon by the ACC for those statements six months earlier to be put on a CD ROM and supplied to him.
10. In my judgement any reasonable Tribunal would conclude, especially against the background of Mr Martyres previous dealings, that this request was an abuse of the Act. No public authority should be expected to scurry round looking for all the evidence in its possession which had been considered when making statements such as these six months previously. The events being investigated took place at least three years before the request. I doubt very much that any Tribunal would accept Mr Martyres assertion that he intended to bring private prosecutions against the persons and organisations concerned; but even if they did, they would not accept that this entirely unfocussed request was a reasonable manner in which to proceed.

D. The Request dated 31 January 2013

11. About 18 months before this request police, in response to Mr Martyres allegations, had interviewed two of his sisters in law.
12. On 31 January 2013 the appellant asked the Chief Constable to supply him with the name and address of the partner of the firm of solicitors acting for his sisters in law; or failing that the name and registration number of the data controller who accompanied them. He gives as a reason for the request that he feared that his sisters in law were preferring “free” advice from a land agent rather than their solicitors. He also asserts as a fact that the two interviewees were denied access to legal advice.
13. Again, having considered the inevitable conclusions about the background, I agree with the ICO that it is inevitable that a Tribunal would classify this request also as vexatious. There is no good reason for imposing upon the Chief Constable the burden of responding to it.

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14. The request is surely doomed to failure anyway under Section 40(2) of the Act because Mr Martyres is unable to point to any legitimate interest in the processing of this personal data either of the interviewees, or, if they were accompanied, of their advisors. Taking this into account, is not to confuse the issue of vexatiousness with that of exemptions under the Act. The rights to privacy of those concerned are recognised in the statute because it is reasonable to do so. The invasion of that privacy is part of the unreasonableness of the request.

E. The Request dated 10 November 2012

15. On 10 November 2012 Mr Martyres wrote to the Chief Constable claiming that evidence supplied to the Independent Police Complaints Investigators in respect of two complaints which he had made had been “manipulated, fabricated and faked”. He then asked for copies of five documents which he intended to pass on to half a dozen investigatory bodies, five firms of solicitors and the High Court. They included his late mother in law’s will; a copy of a caveat lodged at Leeds Probate Registry; names and addresses of owners of a building plot; a letter enquiring about a breach of planning regulations; and a joint enduring power of attorney. All these documents relate to other battles Mr Martyres is fighting in family litigation. Having regard to the dealings before 10 November 2012, I have no doubt that a Tribunal would conclude that the request is vexatious. It bears all the hallmarks of “vexatiousness by drift”, being related to a different dispute which has nothing to do with the public authority and following on as it does from a decision on two complaints against the public authority which had not found in Mr Martyres favour.

F. Conclusion

16. Taking each request separately, and paying special regard to the burden on the public authority, Mr Martyres motives, the lack of any value attached to the requests and the previous dealings which I have described, it is in my judgement inevitable that the ICO’s decision notices would be upheld. For the reasons I have given and for the reasons set out in the ICO response, the Chief Constable was correct in each case to say “enough is enough”. It would be unfair, in my

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judgement, to the ICO and to the Chief Constable to permit the appeals to continue and I therefore consider it is right to bring them to an end now by granting the ICO applications.

NJ Warren

Chamber President

Dated 13 November 2013