



NCN: [2022] UKFTT 00391 (GRC)

Case Reference: EA/2019/0328

**First-tier Tribunal
(General Regulatory Chamber)
Information Rights**

**Heard at: Wigan County Court
Heard on 19 October 2022
Decision given on: 4th November 2022**

Before

**TRIBUNAL JUDGE SOPHIE BUCKLEY
TRIBUNAL MEMBER SUSAN WOLF
TRIBUNAL MEMBER DAVID COOK**

Between

MARTIN LINDSAY ADEDEJI

and

**(1) THE INFORMATION COMMISSIONER
(2) DR K HOSIE**

Appellant

Respondents

Representation:

For the Appellant: In person

For the Respondent: Did not appear

For the Second Respondent: Mr. Flinn (Counsel)

Decision: The appeal is dismissed

REASONS

Introduction

1. This is an appeal against the Commissioner's decision notice FS50812280 of 2 August 2019 which held that the partners of the Dicconson Group Practice ('the Practice') were entitled to rely on s 14(1) of the Freedom of Information Act 2000 (FOIA).

2. The Commissioner did not require the public authority to take any further steps.

Preliminary points

3. The hearing was held in person. Dr Hosie gave evidence remotely in accordance with the order of Judge Griffin.
4. In response to an application by the respondent at the start of the hearing, Judge Buckley ruled that the witness statement of Ms Cooper could be relied on in her absence. It was noted that the tribunal would be likely to put less weight on the statement than if Ms Cooper had attended, as requested, to be cross-examined by Mr. Adedeji. The reasons for this decision were given orally in the hearing.

Background

5. On 3 August 2009 Mr Adedeji attended a consultation with Dr Hosie at Dicconson Group Practice. Mr. Adedeji's description of what happened in that consultation is set out in the Grounds of Appeal at p 19 of the bundle.
6. On 29 January 2010 he made a complaint about the GP's conduct in that consultation to Ashton Leigh and Wigan Primary Care Trust ('the PCT'). Mr Adedeji has since made complaints to the PCT, to the Parliamentary and Health Service Ombudsman (PHSO) and to the Police. Mr. Adedeji is not satisfied with either the outcome or the process in relation to these complaints.
7. Dr Hosie provided an apology in June 2010 (p 227). Mr. Adedeji has described this apology as worthless, because he says it was accompanied with a knowingly false and misleading response.
8. The PCT investigation reached a conclusion in October 2010 and determined that there was no evidence to support the complaint that Dr Hosie had acted in a racist manner. The PCT noted that Dr Hosie had accepted that the words used were inappropriate and had apologised. Mr. Adedeji strongly criticises the outcome and the process adopted by the PCT.
9. Mr. Adedeji referred the matter to the PHSO who investigated his complaint. The PHSO's report, dated 16 April 2015, concluded that they did not find evidence that Dr Hosie behaved aggressively or racially abused Mr. Adedeji and that they did not find evidence that it was unreasonable for the PCT not to uphold his complaint about this. Again, Mr. Adedeji strongly criticises the outcome, the reasoning and the process adopted by the PHSO.
10. Mr. Adedeji reported the matter to the Police in 2011. They told the PCT that they would not investigate the complaint because they were satisfied it had been thoroughly investigated under a recognised complaints procedure. Mr. Adedeji asserts that this decision was unfair, wrong and that the way his complaint was handled was in breach of the Police's 'Hate Crime Policy'. Mr. Adedeji has made a number of related FOI requests to the Police and complained to the Police about their handling of his complaint in 2013.

11. In 2012 Mr. Adedeji commenced civil proceedings against the Practice and the PCT alleging disability discrimination, harassment and breaches of his human rights. These were discontinued in 2013.
12. Since 2009 Mr. Adedeji has also instigated a large volume of what might be termed satellite complaints or requests to various bodies: complaints about the handling of complaints, subject access requests and freedom of information requests, followed, in a number of cases, by complaints to the Commissioner about the handling of subject access requests and/or the handling of freedom of information requests. A number of these have ended up before the first-tier tribunal. Some of these appeals have been successful, others have not.

Requests, Decision Notice and appeal

The Request

13. The decision notice relates to the following request submitted by Mr. Adedeji on 27 May 2018:
 - 1). In respect of Dr Katherine E. Hosie being interviewed in 2010 by Ashton Leigh and Wigan Primary Care Trust's complaint investigator, as a result of a patient complaining about Dr Katherine E Hosie's behaviour during an August 2009 appointment, please provide a copy of information you hold of what: -
 - a). Was the number of times Dr Katherine E. Hosie was interviewed in 2010.
 - b). Was the date and location of each interview and also what form did each interview take so for example was Dr Katherine E Hosie was it a face-to-face interview or was it a telephone interview
 - 2). What date did Dr Katherine E Hosie start back to work in 2010 after being on maternity leave.
 - 3). Please provide a copy of all information you hold regarding Dr Katherine E. Hosie's; reflections, lessons learned and also her needs and outcomes that she identified as a result of a patient complaining about Dr Katherine E Hosie's behaviour during a 03 August 2009 appointment.
 - 4). Please provide a copy of all information that you held, prior to 2 September 2016, fitting criteria of Tribunal's 21 July 2016 decision (Appeal No: EA/2016/0021) and yet you failed to send to the appellant by 2 September 2016 as you were ordered to by the Tribunal's 21 July 2017 decision which stated, 'Action Required. The Public Authority must by 2 September 2016 disclose to the Complainant the minutes of all practice meetings for the period 2009 to 1 September 2015 redacted to remove any commercially sensitive or personal data'.

The Practice's reply

14. The Practice replied to the request on 26 June 2018 refusing to respond on the basis that the request was vexatious.
15. Mr. Adedeji requested an internal review on 31 July 2018. The Practice upheld its decision on internal review on 20 October 2018.
16. Mr. Adedeji referred the matter to the Commissioner on 8 January 2019.

The Decision Notice

17. In a decision notice dated 2 August 2019 the Commissioner decided that the Practice was entitled to rely on s 14 FOIA.
18. The Commissioner's view was that the request when considered in its wider context was vexatious. The Commissioner accepted that the events which took place during the appointment in August 2009 have had a profound psychological effect on Mr. Adedeji. The Commissioner acknowledged that she and the Tribunal have previously found the Practice wanting in the way it has handled Mr. Adedeji's requests, but that does not mean that continuing to submit requests is likely to serve a useful purpose.
19. The Commissioner noted that the Practice has supplied a great deal of information over the past decade which has generated fresh rounds of correspondence and requests. The Commissioner's view was that answering the request was unlikely to move matters forwards.
20. The Commissioner noted that Mr. Adedeji, over nearly a decade, has exercised his right to have the matter dealt with by the PCT, the PHSO, the Police and the courts, all of whom have reached essentially the same conclusion, that Dr Hosie's actions may have been inappropriate but did not amount to racial abuse. It is clear that Mr Adedeji does not accept either this conclusion or that the matter has been investigated thoroughly. As a result, the Commissioner concluded that answering this request was unlikely to bring the matter to a close.
21. The Commissioner noted that the Mr. Adedeji's stated purpose is to hold Dr Hosie to account for her actions during the appointment in 2009. She concluded that Mr. Adedeji had already had multiple opportunities to hold Dr Hosie to account via the appropriate channels and that using FOIA to pursue matters which have already been investigated and addressed is an abuse of the process.
22. The Commissioner stated that although it was clear that Mr. Adedeji had a keen personal interest in the information that the Practice might hold, she could see little wider public interest in the request. The Commissioner considered that there was a greater value in the Practice being able to devote more time to serving its patients instead of engaging in protracted correspondence with Mr. Adedeji.

Notice of Appeal

23. The grounds of appeal are wide ranging and extensive. They are supplemented by further correspondence in the bundle and Mr Adedeji's replies, of which the tribunal has incorporated certain aspects into the list below.
24. The tribunal has read and taken account of the full documents, but the fundamental point made by Mr. Adedeji is the Commissioner was wrong to conclude that the request was vexatious, in particular because the public interest in disclosure was significant.
25. In support of this argument, Mr. Adedeji argues in essence but not exclusively that:
 - 25.1. The incident in August 2009 was serious. Mr. Adedeji asserts that Dr Hosie's conduct was racial abuse and victimisation.

- 25.2. He has suffered serious and ongoing harm as a result of the conduct of Dr Hosie in 2009. This includes post-traumatic stress disorder and a serious impact on his ability to access healthcare. This is supported by medical evidence.
- 25.3. Dr Hosie's apology was undermined by the fact that it was accompanied by an untruthful explanation of her behaviour and the fact that Mr. Adedeji has not received an appropriate remedy for the harm.
- 25.4. The fact that Dr Hosie provided an untruthful explanation makes the request of serious and substantial public interest.
- 25.5. Dr Hosie has continued to work as a GP despite having caused serious harm and provided untruthful explanations. This is of substantial public interest.
- 25.6. The Practice have not dealt properly with his complaints about that conduct. They have failed to learn lessons.
- 25.7. Although he has made complaints about that conduct to various bodies, including the PCT, the PHSO and the Police, he does not accept that they have handled those complaints properly and asserts that they reached the wrong conclusions. He asserts that there were numerous failings by those bodies, including allegations that they ignored or downplayed evidence or parts of his complaints, that there was a deliberate cover up, that they misused his personal data and failed to provide proper explanations for their decisions. Mr. Adedeji asserts in particular that the investigation findings of the PCT and the Practice were inadequate, unfair and unjust and a deliberate attempt to deny him justice. There has been a cover up and disregard of, for example the obligations of the NHS complaints process and the safeguarding of vulnerable adults procedures.
- 25.8. This has a wider public interest because it illustrates that these bodies fail the users of these services. It is important that these failings are uncovered and put in the public domain so that they are less likely to happen again.
- 25.9. There is a substantial body of NHS information documenting, over very many years, the NHS's failure to ensure visible ethnic minorities, such as Mr. Adedeji, had access to appropriate mental health care for the harm caused them by their experience of such things as; racist incidents/ethnic isolation and also that showed due regard for their impaired access issues.
- 25.10. The relevant medical authorities have dealt poorly with the ongoing impact on Mr. Adedeji, including the effect on his ability to access medical services.
- 25.11. The Practice in particular have not only failed to provide support but, amongst other allegations:
 - 25.11.1. have unfairly removed him as a patient and failed to deal with his substantial difficulties in accessing medical services
 - 25.11.2. have made misleading and untruthful statements to the County Court, the Commissioner, the Tribunal and Mr. Adedeji
 - 25.11.3. did not meet their responsibilities in relation to dealing with Mr. Adedeji's health issues, including failing to make appropriate referrals and failing to diagnose Mr. Adedeji's post-traumatic stress disorder.
 - 25.11.4. failed to follow their obligations in relation to dealing with the ethnicity specific causes of Mr. Adedeji's lifelong mental health issues
 - 25.11.5. failed to comply with the Tribunal's 21 July 2016 decision (EA/2016/2021) and are therefore in contempt of court.

26. The purposes of the request include:

- 26.1. To ensure transparency, accountability and lesson learning in respect of the failures which have caused Mr. Adedeji ongoing detriment.

- 26.2. To ensure that Dr Hosie and the Practice are held to account for the conduct in August 2009; and
- 26.3. To establish what the Practice knew and know now in respect of racism and ethnic isolation.

27. Mr. Adedeji also argues that the burden of the request is entirely due to the failings of the Practice, Dr Hosie and the other bodies.

The ICO's response

28. The Commissioner understands the grounds of appeal to be:
 - 28.1. The Commissioner has not adequately scrutinised the Practice's denial that Dr Hosie acted in a racially offensive manner.
 - 28.2. There is a public interest in the information requested, as it would enable Mr Adedeji to find out what happened.
29. The Commissioner relies in general on the decision notice. It is not the Commissioner's role to scrutinise what happened in the consultation. The Commissioner is sympathetic to Mr Adedeji's circumstances and acknowledges that the consultation has had a profound effect on him. Mr Adedeji is displaying intransigence, and it is likely that this request will lead to further correspondence from Mr Adedeji. The public interest in the information is limited in terms of the general public. There is greater value in the Practice being able to devote more time to serving its patients.

Dr Hosie's response

30. Dr Hosie adopts the Commissioner's response. Dr Hosie emphasises the broader context and relies on the letter from the Practice to the Commissioner dated 1 July 2019. Mr Adedeji has advanced no argument of substance.

Mr Adedeji's replies

31. We have consolidated Mr Adedeji's reply to the Commissioner's response and his reply to Dr Hosie's response.
32. In summary, Mr Adedeji submits as follows.
33. Mr Adedeji highlights that his request is in respect of matters of 'overriding and substantial public interest' as outlined in his internal review request correspondence, which states that his request is made to ensure transparency, accountability, and lesson learning in respect of the Practice's many extremely serious failures which have caused Mr Adedeji substantial ongoing detriment.
34. In essence, these failures consist of the Practice not meeting their responsibilities in respect of such things as:
 - 34.1. Mr Adedeji's long-term disabling and incapacitating health and social issues.
 - 34.2. Mr Adedeji's difficulties in accessing NHS services and being able to speak of his health issues.
 - 34.3. Dr Hosie's behaviour during and subsequent to the August 2009 appointment.

- 34.4. Dr Hosie's untruthful response to Mr Adedeji's January 2010 complaint about that appointment.
- 34.5. The continuing harm and detriment the Practice are aware Mr Adedeji suffers as a result of being too traumatised to access NHS service since the 2009 appointment.
35. These failings will, on the balance of probabilities, be happening in other GP practices and this discrimination needs addressing.
36. The request is not just about failures by the Practice. It is part of his attempt to hold Dr Hosie, the Practice and other bodies to account in respect of the issues which have caused him ongoing detriment over many years. These matters are of significant public interest. There has been a cover up and a disregard, for example of the obligations of the NHS complaints process and the safeguarding of vulnerable adults' procedures.
37. The diagnosis of PTSD by Spinning Worlds Specialist Counsellor Ms Doocey, corroborates Mr Adedeji's complaint allegations made in January 2010, undermines Dr Hosie's response to the complaint and undermines the Practice's and all the other bodies responses to Mr Adedeji's complaints and reports that Dr Hosie's behaviour traumatised him. The fact that Dr Hosie provided an untruthful response to the January 2010 complaint and has continued working without appropriate steps being taken by the relevant bodies is of substantial public interest. Dr Hosie cannot be considered safe and trustworthy enough to practice.
38. The most serious of Mr Adedeji's January 2010 complaints is that his health, healthcare and ability to access services have been damaged by Dr Hosie's behaviour. This has never been addressed to Mr Adedeji's continuing detriment. The fact that the Practice have allowed this to continue for 10 years is an extremely serious failure.
39. Mr Adedeji's case shows that bodies such as the Practice, Dr Hosie, PCTs, NHS England, the PHSO, the Commissioner and the Police fail the users of their service.
40. The Commissioner repeatedly made extremely serious failures in response of his complaint that the PCT had breached the Data Protection Act in their handling of the January 2010 complaint. These failings were likely intentional which presents a substantial conflict of interest. The PCT's illegal processing of Mr Adedeji's January 2010 complaint data means that the PCT's and the PHSO's findings in respect of his complaints about the August 2009 consultation are substantially undermined if not worthless.
41. The complaint investigations were also flawed in that:
 - 41.1. The Practice, the PCT and the PHSO failed to conclude, unlike the Commissioner, that the 2009 appointment had a 'profoundly traumatic' effect on Mr Adedeji.
 - 41.2. The PCT and the Practice breached the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 and the Department of Health's best practice guidance
 - 41.3. The Practice and the PCT failed to ensure that Mr Adedeji's complaint was dealt with under the 'Multi Agency Policy and Procedures for protecting Vulnerable Adults' produced by Wigan Adult Safeguarding Board
 - 41.4. The Practice, the PCT and the PHSO failed to act appropriately even though they were aware that Dr Hosie's response was substantially undermined by other evidence

- 41.5. The Practice ignored Mr Adedeji's request for the PALS and Complaints department to investigate the complaint
42. The mishandling of a complaint of abuse by the Practice is an extremely serious public interest matter. Further the failings undermine the validity of the findings of the PCT and the Practice
43. The burden of the request is entirely due to the failings of the Practice, Dr Hosie and the other bodies.
44. The failings of the various bodies include:
- 44.1. Disregarding complaints procedures and legislation, disability and race equalities legislation, the Human Rights Act and the safeguarding of vulnerable adults' procedures.
- 44.2. Not adequately meeting the mental health issues caused by 'racism and ethnic isolation' of ethnic minority individuals such as Mr Adedeji.
45. The PCT and the Practice failed to properly assess and remedy Mr Adedeji's worsened disabilities and impaired access issues that he complained of. The Equality and Human Rights Commission state that the Practice are obliged to assist Mr Adedeji in accessing their services.
46. Dr Hosie's apology was worthless and counter productive.
47. The failings of the various bodies are so blatant, that it is fair to conclude that they have no fear of ever being held to account. These failings are likely to not be uncommon, leading to much detriment for very many other people.
48. The request is not founded on a personal grudge and does have a wider foundation. There is a substantial body of NHS information documenting, over very many years, the NHS's failure to ensure visible ethnic minorities, such as Mr. Adedeji, had access to appropriate mental health care for the harm caused them by their experience of such things as; racist incidents/ethnic isolation and also that showed due regard for their impaired access issues.

Issues

49. The issue for the tribunal to determine is whether or not the request is vexatious within s 14 FOIA.

Legal framework

S 17(1)

50. Section 17(1) provides:

Refusal of request.

(1)A public authority which, in relation to any request for information, is to any extent relying on a claim that any provision of Part II relating to the duty to confirm or deny is relevant to the request or on a claim that information is exempt information must, within the time for complying with section 1(1), give the applicant a notice which—

(a)states that fact,

- (b) specifies the exemption in question, and
- (c) states (if that would not otherwise be apparent) why the exemption applies.

S 14(1) Vexatious Request

51. The Upper Tribunal in **IC v Dransfield** [2012] UKUT 440 (AAC) said the following on the public interest underlying s 14 at para 35:

...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 the irresponsible use of FOIA, especially by repeat requesters whose inquiries may represent an undue and disproportionate burden on scarce public resources.

52. Guidance on applying s 14 is given in the decisions of the Upper Tribunal and the Court of Appeal in **Dransfield** ([2012] UKUT 440 (AAC) and [2015] EWCA Civ 454). The tribunal has adapted the following summary of the principles in **Dransfield** from the judgment of the Upper Tribunal in **CP v Information Commissioner** [2016] UKUT 427 (AAC).

53. 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 (para 10). 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).

54. The test under section 14 is whether the request is vexatious not whether the requester is vexatious (para 19). The term ‘vexatious’ in section 14 should carry its ordinary, natural meaning within the particular statutory context of FOIA (para 24). As a starting point, a request which is annoying or irritating to the recipient may be vexatious but that is not a rule.

55. Annoying or irritating requests are not necessarily vexatious given that one of the main purposes of FOIA is to provide citizens with a qualified right of access to official documentation and thereby a means of holding public authorities to account (para 25). The Commissioner’s guidance that the key question is whether the request is likely to cause distress, disruption or irritation without any proper or justified cause was a useful starting point as long as the emphasis was on the issue of justification (or not). An important part of the balancing exercise may involve consideration of whether or not there is an adequate or proper justification for the request (para 26).

56. 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); (b) the motive (of the requester); (c) the value or serious purpose (of the request); and (d) any harassment or distress (of and to staff). These considerations are not exhaustive and are not intended to create a formulaic checklist.

57. Guidance about the motive of the requester, the value or purpose of the request and harassment of or distress to staff is set out in paragraphs 34-39 of the Upper Tribunal's decision.
58. As to burden, the context and history of the particular request, in terms of the previous course of dealings between the individual requester and the public authority in question, must be considered in assessing whether the request is properly to be described as vexatious. In particular, the number, breadth, pattern and duration of previous requests may be a telling factor [para 29]. Thus, the greater the number of previous FOIA requests that the individual has made to the public authority concerned, the more likely it may be that a further request may properly be found to be vexatious. A requester who consistently submits multiple FOIA requests or associated correspondence within days of each other or who relentlessly bombards the public authority with email traffic is more likely to be found to have made a vexatious request [para 32].
59. Ultimately the question was whether a request was a manifestly unjustified, inappropriate or improper use of FOIA. Answering that question required a broad, holistic approach which emphasised the attributes of manifest unreasonableness, irresponsibility and, especially where there was a previous course of dealings, the lack of proportionality that typically characterises vexatious requests [paras 43 and 45].
60. In the Court of Appeal in **Dransfield** Arden LJ gave some additional guidance in paragraph 68:

In my judgment the Upper Tribunal was right not to attempt to provide any comprehensive or exhaustive definition. It would be better to allow the meaning of the phrase to be winnowed out in cases that arise. However, for my own part, in the context of FOIA, I consider that the emphasis should be on an objective standard and that the starting point is that vexatiousness primarily involves making a request which has no reasonable foundation, that is, no reasonable foundation for thinking that the information sought would be of value to the requester or to the public or any section of the public. Parliament has chosen a strong word which therefore means that the hurdle of satisfying it is a high one, and that is consistent with the constitutional nature of the right. The decision maker should consider all the relevant circumstances in order to reach a balanced conclusion as to whether a request is vexatious. If it happens that a relevant motive can be discerned with a sufficient degree of assurance, it may be evidence from which vexatiousness can be inferred. If a requester pursues his rights against an authority out of vengeance for some other decision of its, it may be said that his actions were improperly motivated but it may also be that his request was without any reasonable foundation. But this could not be said, however vengeful the requester, if the request was aimed at the disclosure of important information which ought to be made publicly available...

61. Nothing in the above paragraph is inconsistent with the Upper Tribunal's decision which similarly emphasised (a) the need to ensure a holistic approach was taken and (b) that the value of the request was an important but not the only factor.
62. The lack of a reasonable foundation to a request was only the starting point to an analysis which must consider all the relevant circumstances. 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, in a holistic determination of whether a request is vexatious.

The role of the tribunal

63. The tribunal's remit is governed by s.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. The Tribunal may receive evidence that was not before the Commissioner and may make different findings of fact from the Commissioner.

Evidence and submissions

64. We read and took account of a number of open bundles and additional documents. We heard evidence from Dr Hosie and Jeanette Cooper, the Practice Manager. We read and took account of skeleton arguments and heard oral submissions from Mr. Adedeji and from Mr Flinn on behalf of Dr Hosie.

Discussion and conclusions

Section 14

65. As a preliminary point, although we do not accept that the Commissioner has a conflict of interest, in any event we look at the matters afresh in a full merits review.

66. Mr. Adedeji's written submissions are extensive. He has raised a large number of points and included a large number of documents. In the course of our deliberations, we have read and taken account of anything that we considered relevant. It was not proportionate to address each of his arguments in detail below, but we have attempted to provide sufficient detail on our reasoning so that the parties can understand why we have reached our conclusions.

Burden

67. When assessing the burden on the Practice we must consider the context and history of the particular request, in terms of the previous course of dealings between the individual requester and the Practice.

68. This history and context begins with a consultation between Mr Adedeji and Dr Hosie on 3 August 2009. It is not necessary for us to make findings of fact in relation to what occurred in that consultation. For the purposes of this appeal, we assume that Mr Adedeji's version of events is correct. Broadly, he asserts that Dr Hosie reacted loudly and aggressively in response to him saying that his issues were due to a lifetime of racism and ethnic isolation. Specifically, he alleges that Dr Hosie said, 'I don't give a shit what colour you are... and that is the view of most people round here'. Mr. Adedeji asserts that this conduct was racial abuse and victimisation.

69. For the purposes of this appeal, it is not necessary to make findings of fact in relation to the impact of that consultation on Mr Adedeji. We assume, for the purposes of this appeal, that the consultation has had a lasting psychological impact on Mr Adedeji and has significant and serious ongoing consequences on his ability to access health services.

70. The course of dealings between the Practice and Mr. Adedeji is long running. It is set out in some detail in the letter to the Commissioner of 1 July 2019. Mr. Adedeji made 11 FOIA or subject access requests (SARs) to the Practice between 2011 and 2018 prior to the index request. Many of those requests were accompanied by requests for internal reviews, some of which were successful. Frequently a complaint was made to the Commissioner.
71. Often the requests led to substantial further correspondence and have caused significant work for the Practice. We find that the requests have become increasingly complex to respond to, as they refer more and more to previous requests or previous emails.
72. We note that the evidence does not suggest that Mr. Adedeji is constantly submitting multiple FOIA requests or associated correspondence within days of each other or relentlessly bombarding the Practice with email traffic.
73. We have considered Mr. Adedeji's argument that the burden is caused in part by the Practice. We accept that, in the course of his dealings with the Practice, Mr. Adedeji has made complaints to the Commissioner which have been upheld in full or in part by the Commissioner or the first-tier tribunal. We have not taken into account any burden on the Practice's resources which arises out of dealing with successful appeals.
74. We do not accept that the rest of the burden is caused by the Practice. Even if Mr. Adedeji is right that there were failures by the Practice this does not in our view reasonably justify correspondence and requests of this volume.
75. We find that the burden was likely to continue. Mr. Adedeji's conduct between 2009 and 2018 both in relation to his correspondence with the Practice, and in relation to his actions in relation to other bodies, demonstrates unreasonable persistence, intransigence and his unwillingness to accept the outcomes of the various investigations.
76. Taking all the above into account, we find that the requests, looked at in the context of the course of dealings, place a substantial burden on the Practice, in particular given the other demands on its limited resources. There is a clear public interest in ensuring that GP practices are not, in the words of the Upper Tribunal in **Dransfield** quoted above, 'exposed to the irresponsible use of FOIA, especially by repeat requesters whose inquiries may represent an undue and disproportionate burden on scarce public resources'.
77. We have concluded that this burden is undue and disproportionate, taking a holistic approach and in the light of our conclusions below.

Motive/purpose and value

78. We accept that the requests are not made simply to cause annoyance or disruption at the Practice, or as part of any deliberate campaign of harassment.
79. Mr. Adedeji argues that the request is in respect of matters of overriding and substantial public interest and concern. He states that the purpose of his information

requests are to ensure transparency, accountability and lesson learning in respect of the Practice's failures in relation to his time as their patient.

80. These failures consist, in essence, of the Practice failing to meet their responsibilities in relation to:
 - 80.1. Mr. Adedeji's ongoing health and social issues.
 - 80.2. Mr. Adedeji's difficulty in accessing NHS services and being able to speak of his health issues.
 - 80.3. The behaviour of Dr Hosie in the 2009 consultation and subsequently.
 - 80.4. Dr Hosie's deceitful response to the January 2010 complaint.
 - 80.5. Mr. Adedeji's continuing harm and detriment he suffers as a result of being too traumatised to access NHS services since 2009.
81. Mr. Adedeji submits that his request is part of his attempt to hold Dr Hosie, the Practice and other involved bodies to account. He states that this must be in the public interest because Dr Hosie has caused post-traumatic stress disorder to a patient she knew to have serious unmanaged health and NHS access issues, provided a deceitful response to the complaint allegations and has continued working.
82. He states that there has been a cover up and a disregard for the obligations of the NHS complaints process and the safeguarding of vulnerable adults' procedures.
83. We accept that there is general public interest in a GP practice meeting their responsibilities in relation to such matters, particularly against a background of allegations of racism and ethnic isolation and an inability to access health services. We accept that racism can act as a barrier to the access of provision of appropriate services.¹ There is a general public interest in compliance with procedure and policies in relation to the safeguarding of vulnerable adults.
84. There is a general public interest in doctors being held to account for misconduct. Further there is a general public interest in the NHS complaints process and the safeguarding of vulnerable adults' procedures being followed.
85. In our view the following factors reduce that general public interest.
86. The particular failings of this Practice and this PCT identified by Mr. Adedeji are, on the evidence before us, personal to Mr. Adedeji. There is no evidence before us that those failings have affected the treatment of any other individuals or their complaints. We do not accept Mr. Adedeji's submission that these failings will, on the balance of probabilities, be happening in other GP practices.
87. The identified failings are, in the main, historic. They relate, in the main, to an incident in 2009 or, more generally, to his time as a patient of the Practice which ended in September 2011.

¹ "[Racism] can act as a barrier to the access and provision of appropriate services. Black and minority ethnic groups may feel excluded from services because of direct discrimination, for example the attitudes of staff towards them, or through indirect discrimination such as being unable to access services because of language barriers. Racial harassment of staff and patients by staff and patients is a widespread problem in the NHS." *NHS Evidence – Mental Health – Marginalised groups – black and minority ethnic groups* p 451 of the part 2 of the bundle.

88. Many of these issues have been raised in complaints to bodies such as the PCT, the PHSO or the Police. Those bodies reached conclusions a number of years ago. We accept that Mr. Adedeji's view of these investigations is that they are seriously flawed and that he does not accept their outcome. However, it is not the information tribunal's role to review the processes and outcomes of concluded investigations which properly fall within the remit of those specialist bodies.
89. We do not accept that the report from Spinning World Psychological Services (p 183) bears the weight the Mr. Adedeji puts on it. Specifically, we do not accept that it shows that the PCT, the PHSO or any other body must necessarily have been wrong in their conclusions.
90. There is evidence that Mr. Adedeji is not willing to accept a conclusion from any body that does not uphold his original complaint. He demonstrates intransigence. He identifies flaws in any process that does not produce the result that he seeks. He makes allegations of a 'cover-up' and alleges that the Commissioner's failings when handling his complaint about breaches of the DPA were 'intentional'. The evidence before us does not reasonably support a conclusion that there has been a 'cover up' or intentional failings by the Commissioner.
91. In the context of all the evidence before us about Mr. Adedeji's actions since 2009 we find that the actions of Mr. Adedeji in continuing to pursue his grievance in relation to his treatment in 2009 have drifted over 9 years from having a serious purpose into an obsessive and unreasonable campaign.
92. Further, for the reasons set out below we find that the specific information requested would not, if answered, disclose any recorded information which would serve any of the general public interests identified above, nor any of the other public interest matters or purposes identified by Mr. Adedeji in his submissions. In our view, there is no reasonable foundation for thinking that the recorded information sought would be of value to the requester, or to the public or any section of the public, judged objectively.
93. These are historic issues. They have been dealt with by the appropriate bodies, albeit not to Mr. Adedeji's satisfaction both in terms of process and outcome. It is not an appropriate use of FOIA to attempt to re-open historic investigations that have been concluded many years ago.
94. There is no objective value to either Dr Adedeji or the public in the release into the public domain of any information held by the Practice on the number of times Dr Hosie was interviewed in 2010 about the 2009 complaint, the date and location of each interview and the form it took.
95. There is no objective value in the release into the public domain of the date that Dr Hosie returned from maternity leave in 2010. Mr. Adedeji submits that this will show whether she returned to work before the complaint had been resolved. It was a matter for the relevant bodies at the time to apply their procedures and to make a decision. In the tribunal's view there is no value in reopening this 8 years later.
96. There is some value to the public in knowing whether or not a doctor reflects and learns lessons or identifies needs and outcomes as a result of a patient complaint. There

is value to Mr. Adedeji in knowing this in relation specifically to his complaint. However, there is little value in the release of this information in 2018, in relation to an incident in 2009 and a complaint in 2010, where both the incident and the complaint have been considered a number of years ago by a number of bodies.

97. We agree with Mr. Flinn that there is no good reason to believe that the release of the information requested in parts 1-3 of the request will lead to Mr. Adedeji's complaint being revisited or upheld by any of the bodies that have considered it. Nor do we think that the information will assist Mr. Adedeji in his aim of holding Dr Hosie to account or indeed in any of the other aims he has identified. In our view, the release of this information is extremely unlikely to bring the matter to a close or to move Mr. Adedeji any nearer to a position where he can move on from the events of 2009.
98. In relation to part 4, the information requested is, in effect, any information that the Practice should have, but did not, release in accordance with an order of the first-tier tribunal in 2016 in EA/2016/0021. If a public authority does not comply with an order of the first-tier tribunal there are enforcement mechanisms. FOIA is not intended to be used as an alternative enforcement mechanism. In the tribunal's view this is an inappropriate use of FOIA. Further, the Practice has already been ordered by the first-tier tribunal to provide this information, so it is unclear what an order by this tribunal to similar effect would achieve.

Harassment and distress

99. The tribunal places little weight on the evidence of Ms Cooper in relation to the anxiety that she has suffered. She did not attend to give evidence despite Mr. Adedeji having indicated that he wished her to attend for cross-examination. Further, the level of anxiety described in the statement amounts, in essence, to considerable anxiety in relation to missing some detail in her responses to information requests. This does not in our view amount to conduct causing harassment or distress as envisaged by para 39 of the Upper Tribunal decision in **Dransfield**.
100. It is important to note that Mr. Adedeji was polite and respectful in the tribunal hearing, including when questioning Dr Hosie. Whilst his ultimate aim is that Dr Hosie should be held to account for her actions, we have no doubt that he has not conducted his correspondence or drafted his request with the aim of causing her distress. However, we find that that has reasonably been the effect on Dr Hosie.
101. The tribunal notes in particular that that Mr. Adedeji has used inflammatory language and made wide-ranging and, in our view, unreasonable, allegations against Dr Hosie even on the basis that his version of events from 2009 is correct.
102. He has accused Dr Hosie of criminal behaviour and of racially aggravated assault. Even on Mr. Adedeji's version of the events in the 2009 consultation these are, in our view, unreasonable labels. We note that no action was taken by the Police in response to Mr. Adedeji's complaint. As stated above, we recognise that Mr. Adedeji does not accept either the process or the outcome of the Police's decision.
103. Mr. Adedeji has also described her apology as 'worthless'. He alleges that she knowingly provided a false and misleading response to his allegations by stating that

her behaviour was triggered by Mr. Adedeji suggesting that there was racism within the Practice and that he had made a suggestion that a person's ethnicity may impact on the health care they receive. He describes this explanation of her behaviour as 'deceitful'.

104. It is not for the tribunal to make a finding on whether the explanation given by Dr Hosie in 2010 was true. However, we note that although Mr. Adedeji's version of the trigger is not identical, it is very similar. He describes the incident in his first complaint email in January 2010 (quoted in his grounds of appeal) and states that the conduct of Dr Hosie occurred after 'I said it had been a long time since I had been to visit my GP, that I wanted better communication. Dr KH agreed. I then said that my issues were due to a lifetime of racism and ethnic isolation.'
105. The tribunal acknowledges that Mr Adedeji does not explicitly state that there is racism in the Practice, nor does he explicitly suggest that a person's ethnicity may impact on the health care they receive. Dr Hosie's version may be inaccurate. However, in our view it is inflammatory and unreasonable on the basis of this subtle difference in versions of events to move to allegations of 'knowingly providing a false and misleading response' and to describe the response as 'deceitful'.
106. We heard evidence from Dr Hosie of the impact on her of the ongoing course of dealings between Mr. Adedeji and the Practice. We do not accept that she is particularly upset because the most recent request asks for 'highly personal information' i.e., the date of her return to work after maternity leave. She accepted in oral evidence that this, in itself, was not unreasonable. We do accept that Dr Hosie is constantly anxious about what Mr. Adedeji will do next and how it will impact on her professional life. We accept that as the years go by and the requests do not stop the stress is increasing.
107. Overall, we accept that the nature of the language used, which is likely to cause distress, and the impact on Dr Hosie point towards this being a vexatious request.

Conclusions on whether the request is vexatious

108. We have taken a holistic and broad approach and have looked at the request in the light of the past course of dealings between Mr. Adedeji and the Practice. We have looked at Mr. Adedji's motive and any distress that is likely to be caused by the request. We have considered the burden on the Practice and the value and purpose of this request.
109. We have concluded that there is no reasonable foundation for thinking that any recorded information sought would be of value to the requester, or to the public or any section of the public, judged objectively. Further in relation to part 4 we have concluded that this is an inappropriate use of FOIA.
110. Looking at all these factors we find that the burden on the Practice is disproportionate. We conclude that the request was vexatious in the sense of being a manifestly unjustified, inappropriate or improper use of FOIA.
111. We conclude accordingly that the exemption in s 14 does apply and this part of the appeal is dismissed.

Observations

112. There is no doubt that a very substantial amount of public resources has been and continues to be dedicated to dealing with these matters. In a decision promulgated in 2018 (EA/2017/0110) the first-tier tribunal urged Mr. Adedeji to have fair regard for the limited resources of the public authorities involved in that appeal. We repeat that plea here.

Signed Sophie Buckley
Judge of the First-tier Tribunal

Date: 27 October 2022