



Neutral citation number: [2024] UKFTT 00329 (GRC)

Case Reference: EA/2023/0312

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

Heard by CVP on 19 March 2024

Decision given on: 23 April 2024

**Before**

**TRIBUNAL JUDGE Stephen Cragg KC  
TRIBUNAL MEMBER Dr Phebe Mann  
TRIBUNAL MEMBER Steve Shaw**

**Between**

**KEITH VERNON GELL**

Appellant

**And**

**INFORMATION COMMISSIONER**

**THE COMMISSIONER FOR THE CITY OF LONDON POLICE**

Respondents

**Decision: The appeal is Dismissed**

**The Appellant represented himself**

**The Information Commissioner was not represented but made written submissions**

**The Commissioner for the City of London Police was represented by Dave Lockyear**

## REASONS

### MODE OF HEARING

1. The proceedings were held via the Cloud Video Platform. All parties joined remotely. The Tribunal was satisfied that it was fair and just to conduct the hearing in this way.
2. The Tribunal considered an agreed open bundle of evidence comprising 207 pages, a closed bundle, written submissions from both parties, and additional documents.

### BACKGROUND

3. On 11 November 2022, the Appellant wrote to City of London Police (COLP) and requested the following information:-

What categories do Action Fraud use when recording reports of fraud from victims? I believe one of these is a witness report, is this correct? What are the others?

What criteria, including any 'points system', do Action Fraud use to categorise victim complaints? Please send the points system if there is one.

4. On 18 November 2022, COLP responded. In relation to the first part of the request it advised that reports: "...can be submitted via a business or by individuals who can report as a victim, as a witness or on behalf of a witness." In relation to the second part, it advised that no information was held.
5. On 13 December 2022 the Appellant requested an internal review and noted that:-

I have repeatedly attempted to file a report of fraud to Sussex Police, who, like most police forces refer me to Action Fraud... Action Fraud will only accept verbal reports over the phone – IMPORTANTLY they do not accept documentary evidence.

Based purely on the verbal phone report they receive, they either create a witness report or a victim report. Witness reports are not looked at again. So I need to know how to have my complaint of fraud recorded as a victim report, and then see it sent back to Sussex Police to investigate.

Action Fraud have refused to accept my complaint as a Victim Report. I need to know why not.

It is important to note that Action Fraud is not a police force, and its employees are not trained in, or understand the law concerning fraud. It seems to be a body employed to give the illusion that fraud complaints are actually being dealt with.

The City of London Police control Action Fraud, and they have a positive duty to investigate fraud where it breaches a victims ECHR rights, which it does in my case.

Therefore the City of London Police DO have the information Action Fraud use to categorise Victim Complaints into those groups that will get to be investigated, and those that do not.

Therefore I ask City of London Police to undergo an internal review of your response to my FOI.

6. COLP provided an internal review on 23 January 2023 in which it revised its position. It explained:-

Action Fraud (AF) is a national reporting facility for offences of Fraud. It has no remit to investigate and reports are passed to the NFIB [National Fraud Intelligence Bureau] for further assessment and dissemination to local Forces and other statutory bodies with a power to investigate. Demand currently exceeds resources and details of the process used to manage demand have never been disclosed to the public domain. Corporate Communications make the following statement when asked: With over 30,000 reports of fraud recorded each month, and limited resources, we have to prioritise those cases we have the capability to investigate further. This prioritisation is done on the basis of several factors, which include but are not limited to vulnerability of the victim and the ability to prevent further frauds. Other factors we consider are not made public. Fraud is the most prevalent crime in the UK currently and we work tirelessly to make fraud awareness and prevention integral to policing's approach to this crime.

7. COLP advised that the information was exempt from disclosure under sections 31(1) (a) and (b) of FOIA. It provided details of a previous decision notice dealing with a similar request under case reference FS50879757<sup>1</sup>, and also advised the Appellant how he could raise a complaint against Action Fraud if he wished to do so. The Appellant contacted the Commissioner on 11 April 2023 to complain about the way his request for information had been handled.

## DECISION NOTICE

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<sup>1</sup> [https://icosearch.ico.org.uk/s/search.html?query=FS50879757&collection=ico-meta&profile=\\_default](https://icosearch.ico.org.uk/s/search.html?query=FS50879757&collection=ico-meta&profile=_default)

8. In the decision notice of 31 May 2023 the Commissioner noted that the Appellant had not specified which parts of his request he wished to complain about. The Commissioner therefore asked for further information from the Appellant in order to understand what he wanted. The Appellant responded to say that:-

The issue I have with the City of London Police is that I made a complaint of fraud to them (they are the lead fraud investigation unit in the UK), then I was called by one of their civilian staff (name redacted) who told me they would not investigate it, but did not give reasons.

I need to know the reasons they refused to record or investigate my report of fraud as subject access request, and how they fit within the general procedure rules by which COLP decide which crime complaints to record and investigate crime, and when they ignore it. COLP's response does not give me any information as to why they have refused to record or investigate my report of fraud, referencing the rules they use to decide which crimes to record and investigate. That is the information I ask you to find out.

9. The Commissioner then noted that he:-

... cannot comment on how COLP dealt with the complainant's complaint of fraud as this is outside his jurisdiction. However, if COLP recorded anything about how it dealt with his complaint then this may be accessible to the complainant via his access rights under the Data Protection Act (the "DPA"). If the complainant has made a request under the DPA, and is dissatisfied with the response, then he can make a separate complaint to the Commissioner; if not, he may wish to consider making such a request.

The Commissioner is only considering the request which was made under FOIA.

The Commissioner considers the scope of his investigation to relate to the latter part of the complainant's request for recorded information, namely: "What criteria, including any 'points system', do Action Fraud use to categorise victim complaints? Please send the points system if there is one".

... FOIA does not require public authorities to generate information or to answer questions, provide explanations or give opinions, unless this is recorded information that they already hold.

10. The Commissioner concluded that:-

As referred to above, the Commissioner has previously considered the release of any "scoring" system used by Action Fraud in respect of alleged crimes. In that investigation, the Commissioner determined that COLP was entitled to refuse to disclose the requested information.

This position was challenged and went on to be considered by the First- tier Tribunal, which upheld the Commissioner's decision. Although such a finding is not binding on the Commissioner, having considered the circumstances of this current case he considers that there is no change in circumstances which would result in him changing his decision.

Following the arguments which were previously relied on, and which are set out in full in the decision notice referred to..., the Commissioner has determined that COLP was entitled to withhold the requested information under sections 31(1)(a) and (b) of FOIA.

11. Given the reference to the previous decision notice we should note that Commission concluded therein that:-

... disclosure would reveal methodology and thresholds which would be likely to be advantageous to those seeking to commit crime and avoid detection.

The Commissioner considers that the disclosure of the requested information, irrespective as to whether or not some of it is currently being relied on, clearly has the potential to give valuable insight into the system being used by AF. This would clearly be of genuine interest to any party who commits, or is considering committing, any type of fraudulent crime. Knowing how such a crime would be dealt with by AF, and how decisions are made, would be likely to be of considerable interest and may make the commission of one type of crime 'preferable' to another...

...the thresholds applied to the various categories of crime may enable perpetrators to revise their actions to try and stay 'under the radar' in an effort to reduce the chance of their being caught.

12. The Commissioner, while acknowledging the importance of increasing transparency, noted that 'a significant amount of information about AF is already in the public domain, including concerns about shortfalls, resources and system issues. Such publications indicate that some of the complainant's concerns are already noted and the appropriate authorities are therefore currently aware'. The Commissioner recognised the importance of not providing fraudsters with useful information, the potential loss of intelligence to the police if people stopped reporting fraud because it did not appear likely to be investigated and that local forces received weekly summaries of cases in their area enabling them to investigate cases even if they were not actively disseminated for investigation. The Commissioner concluded that the balance of public interest lay in upholding the refusal.

## THE LAW

13. Section 31(1)(a) and (b) FOIA provides in relevant part that:-

- (1) Information which is not exempt information by virtue of section 30 is exempt information if its disclosure under this Act would, or would be likely to, prejudice—
- (a) the prevention or detection of crime,
  - (b) the apprehension or prosecution of offenders...

14. In summary, for a prejudice-based exemption, such as section 31(1)(a) and (b) FOIA, to be engaged there must be at least a likelihood that disclosure would cause prejudice to the interest that the exemption is designed to protect, which in this case is the prevention or detection of crime and/or the apprehension or prosecution of offenders.

15. The usual approach to a prejudice-based exemption is set out in *Hogan and Oxford City Council v the Information Commissioner* (EA/2005/0026 and 0030, 17 October 2006), at paragraphs 28-34. This is also reflected in the Commissioner's guidance on the issue.<sup>2</sup> The *Hogan* approach involves the following steps:

- Identify the “applicable interests” within the relevant exemption
- Identify the “nature of the prejudice”. This means:
  - Show that the prejudice claimed is “real, actual or of substance”;
  - Show that there is a “causal link” between the disclosure and the prejudice claimed.
- Decide on the “likelihood of the occurrence of prejudice”.

16. At step 1, the authority must show that the prejudice it is envisaging affects the particular interest that the exemption is designed to protect – in this case the prevention and detection of crime.

17. At step 2, in relation to the nature of the prejudice, there are two parts. As the *Hogan* Tribunal explained, this step involves two parts. Firstly, the prejudice envisaged must be real, actual or of substance, rather than trivial or insignificant.

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<sup>2</sup> [https://ico.org.uk/media/for-organisations/documents/1214/the\\_prejudice\\_test.pdf](https://ico.org.uk/media/for-organisations/documents/1214/the_prejudice_test.pdf)

Secondly, there must be a “causal link” between the disclosure and the prejudice claimed. The authority must be able to show how the disclosure of the specific information requested would or would be likely to lead to the prejudice. Establishing the causal link means that the prejudice claimed is at least possible, that is, there are circumstances in which it could arise.

18. At step 3, in establishing whether prejudice would or would be likely to occur, it is necessary to consider:-

- the range of circumstances in which prejudice could occur (for example, whether it would affect certain types of people or situations);
- how frequently the opportunity for the prejudice arises (ie how likely it is for these circumstances to arise); and,
- how certain it is that the prejudice results in those circumstances.

19. The first limb of the exemption relates to ‘would’ and the second to ‘would be likely’. ‘Would’ therefore means ‘more probable than not’; in other words, there is a more than 50% chance of the disclosure causing the prejudice, even though it is not absolutely certain that it would do so. ‘Would be likely’ refers to a lower level of probability than ‘would’, but one which is still significant, as explained by Munby J in *R (on the application of Lord) v Secretary of State for the Home Office* [2003] EWHC 2073 (Admin) who said:

“Likely connotes a degree of probability that there is a very significant and weighty chance of prejudice to the identified public interests. The degree of risk must be such that there ‘may very well’ be prejudice to those interests, even if the risk falls short of being more probable than not.” (paragraph 100)

20. Section 31 FOIA is subject to the public interest test. This means that even if the exemption is engaged, consideration must be given as to whether the public interest in maintaining the exemption outweighs the public interest in disclosure .

## THE APPEAL

21. The Appellant filed an appeal dated 27 June 2023. His grounds set out a civil dispute where he says that a fraudulently obtained deed of variation has been used against

him, and caused him hardship but that COLP (and other police forces) have declined to record or investigate his allegations. He says that:-

The criminal property arising from that fraud, namely an onerous deed of variation to my lease, 'has been successfully used in litigation against me, to bring about my financial ruin. These particulars amount to money laundering (as defined in the Proceeds of Crime Act 2002 s238), and as such breaches my Article 1 of Protocol No 1 Right to Property, and Article 8. The Right to Respect for Family Life, Home and Correspondence.

In order to assert my Right to a Fair Hearing Article 6 (ECHR), I need to know if a share of the freehold of [a specific address] was fraudulently added to [a named person's], two years after her death.

22. The Appellant says that HMRC is unable to disclose the information to him. He says that he needs to 'make a claim under the Human Rights Act, and the ECHR, to force COLP to record and investigate my complaint of fraud'. He argues that the COLP is wrong to argue that disclosure will affect the investigation of crime and that 'the commonplace refusal of COLP to investigate fraud, and to give no explanation as to why, has emboldened fraudsters to steal in the knowledge that they will not be investigated'. He says that the Commissioner 'was wrong to uphold the COLP's refusal on my FOIA request because they did not take into consideration the public interest' and points out correctly that public interest factors need to be considered in each individual case. He says that in the previous decision notice, there had been no mention of human rights issues as there are in his case, where 'the fraud perpetrated on me has human rights violations' and 'the refusal to release information necessary to access a court is itself an ECHR violation (Article 6)'.

23. Further, he says that the decision not to disclose in the public interest in this case is 'perverse' because 'the decision has led to criminal property successfully being used in a county court, leading to my home being repossessed, and now I am homeless', and the lack of disclosure means 'I cannot make the UK accountable for malfeasance in public office'.

24. We should mention that the Appellant has mentioned the 'qualified person' test which is set out in s36 FOIA, but we note this is not an exemption relied upon by COLP and there is no 'qualified person' test in s31 FOIA.



25. The Commissioner responded to the appeal. The Commissioner notes that:-

The Decision Notice is not about the Appellant's request to HMRC or COLP for information about the deed, nor, as made clear in paragraph 12 of the DN, can the Commissioner (and the Decision Notice) comment upon COLP's handling of the Appellant's fraud complaint. Under s58 of FOIA the Tribunal's jurisdiction is limited to determining (emphasis added) whether the notice [Decision Notice] is in accordance with the law, nothing beyond or outside of this. It follows therefore that just like the Commissioner has no jurisdiction to determine these matters nor does the Tribunal...

26. The Commissioner reiterates his view as set out in decision notices that COLP is correct to rely on the exemptions stated, for the reasons set out by COLP. The Commissioner states that:-

Whilst the Appellant is correct to say the Commissioner did not carry out a public interest analysis in the present DN, he adopted in its entirety the previous Decision Notice (including the public interest balance) already referred to which was upheld by the Tribunal. If the public interest balance had changed, tipped the other way or a new factor had occurred since the last Notice, the Commissioner would have made a point to note this in the present Decision Notice. Nothing caused the Commissioner to depart from the previous Decision Notice.

In any event, the Tribunal will carry out a full merits review into the Commissioner's Decision which will involve an analysis of the public interest.

27. In relation to the human rights points made by the Appellant, the Commissioner says:-

...the Appellant has not provided any proof why such a decision would not be consistent, and in any event, the Tribunal would decide if it was wrong in law, not the Appellant. The Commissioner also notes that despite *Moss* being limited to Article 10, the Upper Tribunal inferred that human rights does not have any bearings on FOIA.

27. COLP made written submissions which explained the system in place for recording and investigating crimes alleging fraud:-

Reports are received by Action Fraud by either telephone, or direct input via the Action Fraud online reporting tool. They are recorded in one of four categories:

- Victim
- Reported on behalf of another (usually by the police)
- Business (where an organisation is the victim rather than an individual)
- Witness

All reports are transferred from Action Fraud to the NFIB as either a confirmed fraud report, or if it does not meet the national crime recording standard, as an information report, for review and possible dissemination to a law enforcement agency with the power to investigate.

From its inception, the NFIB used a computer software system called Know Fraud to link reports and allocate a score based on the information provided by the victim at the time of reporting. Reports are linked to form cases using common features (or entities) and each case can include a single report or multiple reports. In October 2018 the Know Fraud system was replaced by SAIP (Strategic Actionable Intelligence Platform) which operates in a similar manner to Know Fraud but with additional capabilities.

Due to issues within SAIP, a manual element was temporarily introduced to the scoring process in 2019.... The manual element had ceased to be used at the time the Appellant first submitted his FOI request.

The volume of incidents recorded by AF has exceeded 500,000 for the past 4 years and will do so in 2023 based on current monthly statistics. This volume exceeds the capacity of law enforcement agencies to investigate and of NFIB to manually review. Cases are therefore prioritised for dissemination to law enforcement agencies using a points-based system subject of this request.

Irrespective of whether or not a case is formally disseminated, summaries of all cases are disseminated where a force with the jurisdiction to investigate is identified. Additional actions that may be undertaken by the NFIB in respect of all cases includes disruption tactics, identification of vulnerable victims and provision of victim care.

Details of the specific factors used to generate scores are contained in four documents, three of which are considered to be exempt information which has never been placed in the public domain. A copy of the fourth document has been disclosed to the Appellant.

Demand exceeds resources and details of the process used to manage demand have never been disclosed to the public domain. When asked, Corporate Communications make the following statement:

With over 30,000 reports of fraud recorded each month, and limited resources, we have to prioritise those cases we have the capability to investigate further. This prioritisation is done on the basis of several factors, which include but are not limited to vulnerability of the victim and the ability to prevent further frauds. Other factors we consider are not made public. Fraud is the most prevalent crime in the UK currently and we work

tirelessly to make fraud awareness and prevention integral to policing's approach to this crime.

28. The submissions then relate the following in relation to s31 FOIA:-

Section 31 of the Freedom of Information Act is engaged because disclosure of the process of prioritisation would prejudice the ability of Police Forces and other statutory bodies to enforce fraud legislation and, together with NFIB, prevent and disrupt fraud operations for the following reasons:

Disclosure would reveal details as to the prioritisation of specific threats in the investigating process. This would provide information to fraudsters that would enable them to focus their efforts on those fraud areas given less priority by law enforcement agencies and avoid those areas given high priority.

Even if a case is not disseminated for investigation, there are a number of alternative tactics of a disruptive nature that are routinely deployed. These include taking down websites, closing bank accounts, blocking payment facilities and recovering proceeds of crime. Additionally, measures may also be put in place to support victims of fraud and reduce the likelihood of becoming a repeat victim.

However, where victims of fraud believe that no investigation will take place, they may lose confidence and be less likely to report an incident. Given the volume of incidents reported, the loss of intelligence is likely to be significant. Any loss of intelligence would prejudice the ability of law enforcement agencies to deploy disruptive tactics and provide victim support.

We believe that the link between disclosure of the case assessment criteria and consequential prejudice to law enforcement is extremely strong. This is based on two factors.

Firstly, the case assessment criteria contain financial thresholds and the principle is similar to the principle linking the disclosure of speed camera prosecution thresholds to speeding offences. If the threshold is disclosed, drivers would be able to travel past a speed camera in excess of the speed limit but below the prosecution threshold in the knowledge that they would not receive a Fixed Penalty Notice. This principle is very well established and we rarely receive such requests.

Secondly, the link between disclosure of the prioritisation process and loss of intelligence is based on an actual drop in the number of reported fraud offences following the publication of the series of negative news reports by the Times newspaper.

29. In relation to the public interest test COLP accepts that 'Disclosure would facilitate a better-informed public debate and a better understanding of how limited resources

are utilised'. However, 'Given the current scale of fraud in the UK, any prejudice to law enforcement is likely to have a significant consequence in respect of the number of fraud victims' and 'disclosure is likely to result in a reduction in the number of incidents reported to AF, with a consequential loss of intelligence' and 'would reduce the opportunities to deploy disruptive tactics and support victims of fraud to prevent them being repeat victims'.

30. The Appellant replied to both the Commissioner's and COLP's submissions, explaining further details of his own case and situation and disputing that the prejudice claimed by COLP would occur, given the failures already to investigate many fraud offences.

### THE HEARING

31. At the CVP hearing the Tribunal heard from the Appellant in person. The Appellant accepted that there was pressure on the police due to the number of reports of fraud, and that it might not be possible for the police to investigate all reports of fraud. However, he thought that in his case, the seriousness of the fraud and the fact that his right to possessions and home were engaged meant that his case should have been investigated. He needed the information from the police to enable him to get a fair hearing of his case. On this basis, the Appellant argued that Art 8 (right to respect for home), Art 1 of Protocol 1 (which protects property rights) and Art 6 (right to a fair trial) were all public interest reasons why the information should be disclosed to him. He also relied upon the wider public interest in increased knowledge about the criteria used by the police in deciding whether to investigate fraud as an important interest.

32. COLP relied on the written submissions set out above, and the Commissioner did not appear at the hearing.

### DISCUSSION

33. We agree with the COLP's arguments, as set out earlier in this decision. As accepted by the Appellant in the hearing, the police cannot investigate every crime and are

entitled to have criteria which assist in prioritising which crimes will be investigated, including in relation to fraud offences.

34. Thus section 31 FOIA is engaged because disclosure of the process of prioritisation would reveal information to fraudsters that would enable them to focus their efforts on those fraud areas given less priority by law enforcement agencies and avoid those areas given high priority. We accept COLP's argument that even if a case is not investigated there are a number of alternative tactics of a disruptive nature that are routinely deployed, as described above, for the purposes of tackling fraud crime more generally, and that these tactics would be more difficult to implement if victims of fraud believe that no investigation will take place, and are less likely to report an incident. We accept that any loss of intelligence would prejudice the ability of law enforcement agencies to deploy disruptive tactics and provide victim support.
35. In our view, it is clear that any prejudice clearly relates to (a) the prevention or detection of crime, and/or (b) the apprehension or prosecution of offenders.
36. The nature of the prejudice envisaged is 'real, actual or of substance', as it is said that fraudsters would evade detection and the police would be less able to investigate crime. There is a clear causal link between the disclosure of operational criteria and the prejudice claimed.
37. The Tribunal has no difficulty in accepting that the envisaged prejudice would take place. Criminals are undoubtedly very interested in criteria by which the police decide whether or not to investigate crime, with a view to avoiding detection. Many members of the public would be discouraged from reporting fraud if they could see that the individual crime would not be investigated, leading to a loss of important intelligence for the police.
38. In relation to the public interest test we accept, as do COLP and the Commissioner, accept that 'disclosure would facilitate a better-informed public debate and a better understanding of how limited resources are utilised'. However, we also accept that, as COLP argue, 'given the current scale of fraud in the UK, any prejudice to law

enforcement is likely to have a significant consequence in respect of the number of fraud victims' and 'disclosure is likely to result in a reduction in the number of incidents reported to AF, with a consequential loss of intelligence' and 'would reduce the opportunities to deploy disruptive tactics and support victims of fraud to prevent them being repeat victims'.

39. Those are important public interest issues which, in our view would outweigh the benefits of transparency and increased accountability. However, the Appellant's submissions ask us to consider that the public interest factors to be considered should take into account the personal circumstances of his case, including those which engage his human rights. Thus, he says he needs the requested information to help him in a bid to have COLP investigate the fraud offence that he says he has reported. He needs the fraud offence investigated because, he says, it has led to an injustice in the civil courts which affects his right to property and home life which he cannot remedy without the alleged fraud being dealt with and investigated.
40. The rights under the FOIA to disclosure of information are not the only rights to information in the English legislative framework. We understand that this is the point made by the Commissioner when he refers to the *Moss* case in his Response to this appeal. Thus, in the case of *Moss v the Information Commissioner and the Cabinet Office* [2020] UKUT 242 (AAC), the Upper Tribunal endorsed the view that the FOIA did not provide an exhaustive scheme for disclosure of information.
41. Thus, the Appellant is engaged in civil litigation, for example, which has its own set of rules about disclosure from parties and also from third parties not involved in the litigation. Our role is to apply the law of the FOIA to a request and we are not in a position to adjudicate on other legal processes which might be in train. The fact that disclosure might not be ordered under the FOIA does not mean that there is a breach of a person's human rights because the FOIA does not provide the limits of legal disclosure to individuals.
42. We can of course take into account submissions about the importance of the information sought for the individual Appellant, when we consider the public interest test, and we will do this. There is a public interest in assisting a person defend their rights as the Appellant says he is seeking to do, although by definition

that is also a very personal interest as well, as the Appellant in this case has made clear.

43. However, we do remind ourselves of the information sought in this case, and again of the limits of our role. As the Commissioner said in the decision notice, it is not the place of the Commissioner or this Tribunal to comment on how COLP dealt or will deal with the Appellant's complaint of fraud, as this is outside both of our jurisdictions.
44. In addition, if COLP has recorded anything about how it dealt with the Appellant's complaint then this may be accessible to the Appellant via his access rights under the Data Protection Act (DPA). We note that personal information of the Appellant is excluded from the FOIA. If the Appellant has made a request under the DPA, and is dissatisfied with the response, then he can make a separate complaint to the Commissioner.
45. The Commissioner considered that scope of the request in this case to be 'What criteria, including any 'points system', do Action Fraud use to categorise victim complaints? Please send the points system if there is one'. Whether this information should be disclosed is the extent of our role.
46. Although we can see that this information might be of use to the Appellant to assist his understanding of how COLP dealt with his case, the information sought does not, on its own, impact or advance the Appellant's human rights position. Disclosure will not advance his civil claim (he says he needs his fraud allegation to be actually investigated for that to happen), and disclosure would not affect whether his Art 8 or Art 1 Prot 1 rights have been breached. These are matters which might have to be pursued through other fora and we have no jurisdiction to decide them.
47. Thus, while we are prepared to take into account the importance that the Appellant places on disclosure of this information for the purposes of the public interest balance, in reality disclosure is unlikely to advance the issues about which the Appellant is really interested and so this consideration will have little weight in the public interest balance.

48. Having formed that view, the conclusion of the Tribunal is that the strong public interest factors in favour of withholding the information outweigh the public interest factors in favour of disclosure.

49. On that basis, this appeal is dismissed.

50. We note that the Appellant made an application at the end of the hearing for a copy of the recording of the hearing to be paid for at public expense, due to his short term memory issues (referred to in medical evidence). The Appellant was advised to consider the Tribunal's reasons before making that application as the decision may contain all the information he needs as to how the Tribunal has considered this case.

Recorder Stephen Cragg KC, sitting as a Tribunal Judge

Date: 23 April 2024