



**On Appeal from:**

**The Information Commissioner's Decision Notice No:**

**FS50584415**

**Appeal No. EA/2015/0244**

**Appellant: Anthony Kell**

**First Respondent: The Information Commissioner ("the ICO")**

**Second Respondent: Rothbury Parish Council ("RPC")**

**Date of Hearing: 22 March 2016**

**Date of Decision: 30 June 2016**

**Date Promulgated: 1 July 2016**

**Before  
David Farrer Q.C.**

**Judge**

**and**

**Paul Taylor and  
Jean Nelson  
Tribunal Members**

Mr. Kell appeared in person.

The ICO did not appear but made written submissions.

Robin Hopkins appeared for RPC

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Subject matter : FOIA s.14

Whether Requests made by Mr. Kell to RPC  
were vexatious.

Authority referred to

*Dransfield v ICO and Devon County  
Council  
(Civ)* [2012] UKUT 440 (AC); [2015] EWCA  
454.

The Tribunal's decision

The appeal is dismissed.

Abbreviations additional to those indicated above.

<u>The DN</u>	Decision Notice.
<u>FOIA</u>	The Freedom of Information Act, 2000.
<u>The UT</u>	The Upper Tribunal

The Relevant Statutory Provision

FOIA s.14(1)

*Section 1(1) does not oblige a public authority to comply with a request for information if the request is vexatious.*

The Reasons for the Tribunal's Decision

The Background

1. Rothbury is a village in Northumberland with a population of about 2,800. It has a parish council of nine elected members which, at the date of the requests, had an annual precept of about £52,000. It employs a clerk, Ms. Claire Miller for six and a half hours weekly. Its Chairman since March,

2014 has been Mr. Mark Gilson, who, like Ms. Miller, gave oral evidence at the hearing. Its task is to serve the community as regards the specific local needs common to all such authorities. It is a statutory body and the conduct of its affairs is governed by primary and secondary legislation and by Standing Orders based on a model created by the Northumberland Association of Local Councils for Smaller Parish Councils.

2. Mr. Kell is a Rothbury resident and an RPC elector. His dealings with RPC date from a meeting which he attended in January, 2012, the minutes of which contained his name and address. He contended that the inclusion of his address involved an unlawful processing of his personal data and required its removal from the record and an apology. Such an apology, he says, was not forthcoming. That incident, it seems, initiated his unhappy relationship with the clerk and members of RPC which grew increasingly troubled over the ensuing four years, culminating in this appeal and another still to be heard.
3. Mr. Kell gave evidence of his business experience and his service on the boards of limited companies. He described his commitment to and familiarity with high standards of corporate governance, the Nolan principles and the importance of such standards and principles in the conduct of public authorities, great and small.
4. Over the past four years he has conducted what he described as a “campaign” to improve the governance of RPC, which, so he says, was and remains seriously defective. A great deal of the evidence and argument which he presented to the Tribunal, including the testimony of other

witnesses supporting his complaints, was directed to the alleged shortcomings of RPC and its members as to openness, integrity and accountability, as demonstrated in a long series of incidents. Much of that evidence was contested by Mr. Gilson and Ms. Miller.

5. In a Case Management Note dated 11<sup>th</sup>. February, 2016, the Chamber President stated that Mr. Kell “*appears to be under the misapprehension that the present proceedings are an opportunity for him to ventilate a range of concerns he has about the Council’s actions and to use them in order to extract information from the Council that he thinks may be pertinent to those concerns*”. This authoritative observation does not appear to have dispelled that misapprehension. The Tribunal therefore repeats that its task is not to make findings as to a long series of factual disputes relating to fractious confrontations between Mr. Kell and his supporters on the one hand and council members and clerk on the other. Its function is not to judge standards of governance within RPC or the legal character of Ms. Miller’s services as Clerk. It is to determine whether the requests for information identified below, viewed in the context of earlier requests and complaints made by Mr. Kell to RPC, were vexatious in the sense discussed at paragraph 20. If, or to the extent that a particular incident or omission sheds light on the purpose, motivation or reasonableness of the material requests, whether supporting or refuting the claim that they were vexatious, then that incident or omission would, to that extent only, be relevant. Whether Mr. Kell ‘s wholesale denunciations of RPC’s conduct of its business are justified is immaterial to our decision.

### The Requests

6. On 24<sup>th</sup>. February, 2014, solicitors acting for Mr. Kell wrote to the clerk to RPC posing a formidable series of questions and requesting a number of items of information, all broadly relating to the governance of RPC (“the letter”). There were thirteen questions and requests, six of which contained multiple sub – paragraphs. Although the letter purported to be a request under s.1 of FOIA, only about three of the thirteen requested information as defined in s.84 of FOIA. The remainder required answers to questions, a form of scrutiny outside the scope of FOIA. Section 1 confers rights to the provision of recorded information, not to replies to interrogatories.
  
7. RPC evidently discussed these questions and requests and there was subsequent correspondence. Its response did not satisfy Mr. Kell who made a series of what purported to be FOIA requests, referring back to the letter, in four Emails, all dated 14<sup>th</sup>. April, 2015. The content of those Emails is complicated and diffuse. It is sufficient to summarise the scope of the demands that they made and their relationship to the letter.
  
8. The first Email (12.24), having delivered a short homily on RPC’s supposed obligations under FOIA and other statutes or statutory instruments, requested the information specified in §§1 – 7 of the letter, together with supplementary elaborations. It included questions as to the whereabouts of minutes and the identity of their keeper and of accounts. It required dates of compliance audits and minute references and facilities for inspection of minutes and accounts. It sought confirmation that minutes had been lawfully recorded, authorized and published. It added requests for disclosure of RPC’s document retention policy and most recent compliance audit.

9. The second Email (14.36) was concerned with complaints to RPC, a subject which had been raised, in three subparagraphs, in the letter. These were now expanded to about seventeen questions, preceded by a series of recitals, which set out the recent history of complaints procedures and RPC's supposed duties and failings in this regard.
10. The "Requests" included (in effect) a request for any complaints register or alternative records of complaints (2.2 and 2.4). Otherwise the "current request" section of this Email consisted of a series of questions requiring a minute analysis of any records that RPC maintained. They included
- the number of complaints made by individuals;
  - how many resulted in formal hearings ?
  - how many were processed by other means ?
  - how many received a response within five days ?
  - what were the topics of complaints since January, 2013 ?
  - how many were dealt with in conformity with RPC's complaints policy ?
  - how many resulted in formal confirmation from the complainant that they had been satisfactorily resolved ?
  - how were complaints made via individual councillors resolved ?
  - how many complaints had RPC made during this period, whether written or oral, directly or by someone "acting as if on behalf of RPC" to any outside body or individual ?

It seems most unlikely that the majority of those paraphrased inquiries could be answered by the ready production of an existing record. Given Mr. Kell's professed familiarity with FOIA, his misunderstanding as to what constitutes "information" (see s.84) is surprising. The same comment applies to the solicitors who sent the letter.

11. The third Email referred to question 11 of the letter and required RPC to specify the amount of money provided to the clerk for the purchase of equipment, the authority for such purchase by reference to minutes and date and to identify what equipment the clerk used for RPC business.
12. The fourth Email requested a copy of the summons to a council meeting in January, 2014. This was said by RPC to be available on its website but Mr. Kell denied this. The Tribunal ignores this part of the requests in determining whether they were vexatious.
13. A further request followed on 21<sup>st</sup>. April, 2015. It plays no part in our decision since RPC provided most, if not all the requested information.
14. On 28<sup>th</sup>. June, 2015 Mr. Kell made a further request which was not considered in the DN. It is therefore outside the scope of this appeal, although the fact that it was made could be material to the assessment of vexatiousness.
15. On 27<sup>th</sup>. April, 2015, Ms. Miller responded to the requests of 14<sup>th</sup>. April, 2015 by referring Mr. Kell to correspondence with his solicitors in April, 2014 and by stating that RPC had not found it necessary to implement its



formal complaints policy.

16. On 14<sup>th</sup>. July, 2015 Mr. Kell sent a long Email to Ms. Miller as clerk to RPC, copied to the ICO, culminating in the accusation that RPC appeared to have “*moved towards intentional persistent obstruction*” of the rights of its electorate. This elicited a prompt response from Ms. Miller, on behalf of RPC, invoking FOIA s.14(1) on the ground that these requests were vexatious and invoking s. 17(6) as to future related requests. Later the same day Mr. Kell complained to the ICO, denouncing RPC ‘s record as to public access to information and describing it as “*a rogue public sector body*”. He stated that “*The campaign for transparency will continue*”.

#### The D.N.

17. The ICO concluded that RPC was entitled to rely on s.14(1) on account of the number of requests coupled with a previous history of unreasonable behaviour, complaints and information requests. He found that his conduct caused unjustifiable stress for councillors and imposed a disproportionate burden on RPC’s resources. Mr. Kell was preoccupied with the minutiae of RPC’s conduct rather than anything of wider public interest. There was no reason to suppose that satisfaction of these requests would deter him from the unwavering pursuit of his campaign against RPC.

18. Mr. Kell appealed.

#### The issues

19. The Tribunal's assessment of appeals against refusals based on s.14(1) is governed by the familiar principles enunciated by the UT in *Dransfield v ICO and Devon County Council* [2012] UKUT 440 (AC) and broadly confirmed by the Court of Appeal [2015] EWCA (Civ) 454.

20. The essential points are these –

- (i) The Tribunal must adopt a broad and holistic approach to the question whether a request is vexatious. A simple checklist of characteristics is not appropriate.
- (ii) A fundamental question is whether the demands of the requester are proportionate to the value of the information requested, the burden imposed on the public authority, the disruption to its business and the distress that they may cause, whether by their intrinsic character or the manner of and background to their presentation. Is there a reasonable foundation for believing that the information sought would be of value to the requester or to the general public sufficient to justify the probable adverse consequences ?
- (iii) The background of previous dealings between the requester and the public authority, the number, breadth, pattern and duration of the requests may be important.
- (iv) The test for vexatiousness is a “high hurdle”, therefore requiring clear and specific evidence.

#### The case for Mr. Kell

21. Mr. Kell testified on oath, called a number of witnesses and presented a

wide range of documentary evidence to the Tribunal. A great deal of this evidence was directed to showing that the clerk and members of RPC persistently failed to observe proper standards of governance and perversely resisted attempts to improve its performance; that they obstructed demands for transparency and conducted meetings in an unsatisfactory manner ; furthermore, that he and those who shared his concerns had been treated discourteously and disrespectfully when raising issues of transparency and accountability and encountered hostility from councillors and local residents. A significant proportion of this evidence related to meetings in June and September, 2015, subsequent, therefore, to the critical requests and at a stage when relations between councillors and their supporters and Mr. Kell and his witnesses had deteriorated to a serious extent.

22. Mr. Kell submitted his evidence in the usual form of a signed witness statement and was cross – examined on oath by Mr. Hopkins on behalf of RPC.
23. He advanced his credentials as a critic of poor governance, in particular failures to conduct public business transparently and provided, in some detail, his views on the qualities required to create a “culture” conducive to the successful performance of public duties.
24. He set out fourteen “key issues” for the determination of this appeal. They included the undoubtedly relevant assertion that he was acting responsibly in the public interest (presumably in making these requests, not simply in waging his campaign) and a claim that RPC had ample resources to comply with his requests, given the substantial increase in its precept for

2014 – 15. He described the “List of Complaints” that he had made as “ludicrous”, though this appeared to describe the manner of their presentation rather than the fact that they had been made and a perceived failure to resolve them in accordance with prescribed procedures. He observed, that the “logs” of complaints were served only after the publication of the DN.

25. The other issues related to alleged breaches of legislation affecting town and parish councils, apparently arising, in particular, from denial of access to minutes and other records. They included a failure to take up Mr. Kell’s offers of training or to publicise adverse findings by its external auditors. He complained that RPC had failed to confirm through “legal – standard evidence” that the clerk, Ms. Miller, had been lawfully appointed to her office in 1997.
26. Similar complaints as to unlawful conduct and denials of access to information were directed at the Rothbury Joint Burial Committee, one of the councils involved being RPC.
27. The allegations of unlawfulness may or may not have been justified. If relevant to the Tribunal’s determination, it is notable that they are very general in nature; specific instances are hard to identify and there has been no attempt to relate to them the statutory provisions said to have been breached. Given the extensive range of Mr. Kell’s submissions and his professed expertise in the law of local government, such omissions are more striking than would be the case with most litigants in person. Claims of unlawful conduct by a public authority in the performance of its duties to the

community require clear and precise foundations.

28. In dealing with the requests giving rise to this appeal, Mr. Kell acknowledged that some of the information requested on 14<sup>th</sup>. April, 2014 had been supplied. He identified as “outstanding issues” the handling of complaints, information as to RPC’s retention of documents to which the public has a right of access and an unwillingness to acknowledge error or “*to engage meaningfully with knowledgeable electors*”, a class which would evidently include himself. This last failing he attributed in large measure to the clerk.
29. In his final written submissions of 3<sup>rd</sup>. June, 2016 he stated that there were two unanswered requests from the 14<sup>th</sup>. April Emails. This conflicted with his earlier claims as to what remained unanswered and the Tribunal remains uncertain as to which they are. However, such uncertainty does not affect its assessment of the character of the requests.
30. He regarded as especially blameworthy the supposed absence of proper evidence of her employment, which he treated as disentitling her to remuneration for her long period of service. The relevance to his requests of this persisting concern was unclear.
31. When cross examined, Mr. Kell was asked just what requested recorded information he claimed was being withheld by RPC. He provided no real answer. He sought to justify as matters of public concern his references to the police of complaints against a councillor and the clerk, in the latter case an accusation of fraud.

32. The Tribunal read with care Mr. Kell's lengthy witness statement and the very extensive documentation which he submitted. It is not, however, necessary to review its content further in this decision for the reason given at §5. It is notable that his concentration on the same matters, unrelated to the issues in this appeal, persisted in his very protracted final written submissions of 3<sup>rd</sup>. June, 2016.
33. Further evidence was adduced from six supporting witnesses, Dr. Bottom, Mr. Tait, Mrs. Kell (all Rothbury residents and electors), Ms. Hill and Mrs. Graham (campaigners for transparency serving on neighbouring councils) and Dr. Spencer Barclay, an independent consultant with "*an awareness of local authority issues and applicable law*".
34. Dr. Bottom attended a few RPC and electors' rights meetings from 2012 to 2014. He also obtained information as to RPC's alleged shortcomings from Mr. Kell and the local press. He attended Mr. Kell's meetings with the police when complaints were made as to refusals of inspection rights and alleged failure by councillors as to election expenses and a declaration of interest. He understood that these complaints were not fully investigated due to lack of resources and questions of priorities. That belief, in so far as it relates to the declaration of interest, is surprising, since Northumbria Police informed the councillor concerned in January, 2015 that the fault lay with the County Council, not the councillor and showed Mr. Kell the conclusive evidence for that finding in October, 2014.
35. Mr. Tait, Mrs. Kell, Ms. Hill and Mrs. Graham attended various

meetings in 2015 and criticized the demeanour and attitude of the chairman and councillors . Mrs. Kell had attended meetings with her husband from 2012.

36. Dr. Spencer Barclay's direct evidence related to his attendance at an electors' rights meeting on 25<sup>th</sup>. June, 2015 and his concerns at the uninformed responses of the councillors present to electors' questions. Otherwise, it consisted largely of a recital of Mr. Kell's complaints as to the previous failings of RPC and Dr. Spencer Barclay's supportive comments upon them in the form of fourteen points culminating in an expression of his disapproval at the expense incurred by RPC in resisting this appeal. He advocated transparency and open government.

37. These were the principles upon which Mr. Kell rested his claim that the requests of 14<sup>th</sup>. April, 2015 were reasonable and proportionate and that his motive was the improved governance of RPC and the promotion of local democracy.

#### The case for RPC

38. Ms. Claire Miller, the parish clerk and Mr. Mark Gilson, RPC chairman since May, 2014, gave evidence for RPC. Ms. Miller's evidence was of fundamental importance to our determination.

39. She described the length and terms of her service as clerk and "proper officer" to RPC. She agreed with Mr. Kell that the acrimonious relationship between the two parties had its origins in 2012 with the issue of the

publication of his address. She pointed out that he had given that address at the relevant meeting and had been willing to publish it on other occasions, for example when canvassing for election to RPC. She quoted Mr. Kell's "Notes to Bundle" to the effect that *"The questions raised since August 2012 would not have arisen had the then chairman acknowledged breach of the Data Protection Act, apologized for that breach and ensured that the council's formal record was compliant with the Act"*.

- which, she suggested, was a telling indication of Mr. Kell's motives for pursuing his campaign.

40. She stated that this was followed by a large number of complaints and requests for information from Mr. Kell and, from about May, 2013 to April, 2014, with the solicitors that he instructed. They took the form of letters, Emails, telephone calls, statements made at meetings and approaches to individual councillors. She asserted that RPC and she personally were overwhelmed by their volume and complexity. In oral evidence she estimated that they occupied eighty per cent of her working hours and often demanded more time than provided for by her contract.

41. Among the documents supplied by RPC to the ICO was a "List of Complaints" made by Mr. Kell to RPC and individual members in the fourteen months following his initial confrontation in August, 2012 (see §24 above). It was compiled by a member of RPC as a spreadsheet and is dated 1<sup>st</sup>. December, 2013. It sets out each complaint or request individually and in many cases several such complaints/ request are stated to be included in a single letter, Email or telephone call. Further, a chronology of RPC dealings



with Mr. Kell was prepared and served on the ICO. It covers, in summary form, the whole period from August, 2012 to the summer of 2015. It demonstrates, if accurate, that communications with him or his solicitors were continuous.

42. This conduct had led to RPC invoking its Vexatious and Habitual Complaints Policy by letter dated 21<sup>st</sup>. November, 2013, following a meeting with Mr. Kell and Dr. Bottom and an RPC meeting on 13<sup>th</sup>. November, 2013. That letter recited a series of characteristics of Mr. Kell's complaints which broadly correspond to those which were cited in evidence and which may be material to a s.14 refusal.
43. She refuted the claim that RPC failed to respond to these requests and complaints. Her assessment was that no response satisfied or would ever satisfy Mr. Kell; he was intent on finding fault with anything that RPC did. She accepted that there were failures in RPC's conduct of its affairs, as would be the case with most small councils. She contended that they did not justify the barrage of criticism and demands from Mr. Kell, which prevented RPC from giving adequate time to its normal administration.
44. Correspondence containing requested information was returned unsigned for or shredded by Mr. Kell. He and his solicitors persisted in sending letters to council members rather than to Ms. Miller as the proper officer, despite legitimate requests that they do so. Mr. Kell treated such requests as a betrayal of democracy, despite knowing that councillors had agreed to this course.

45. Mr. Kell set up a Facebook page in 2015, entitled “Rothbury Deserves Better” to publicise his campaign against RPC. It featured an article which purported to contrast Ms. Miller’s advertisement of her secretarial and bookkeeping services with gross shortcomings in the performance of her duties with RPC. Another entry alleged undisclosed business interests and breaches of rules as to election expenses by an RPC councillor which had been investigated by the police.
46. Ms. Miller further produced a letter from a local resident reporting that Mr. Kell, whilst canvassing in 2014, had stated that the Chairman and Treasurer of RPC had misappropriated a large sum of RPC money and that Ms. Miller had refused him access to the financial records which would have exposed this.
47. He had also reported her to Northumbria Police for alleged fraud in her receipt of a salary as clerk to RPC, when she is not lawfully appointed. None of these charges had been upheld by police investigation.
48. Ms. Miller contended that RPC had always been willing to meet Mr. Kell to resolve differences but not to accept an independent audit by a party of his choosing.
49. Cross examination of Ms. Miller, despite reminders from the Tribunal as to the relevant issues, was persistently directed to detailed questioning on minute matters of governance. Her evidence on the matters summarized above was left largely untouched.

50. Mr. Gilson gave evidence as to the impact on members of Mr. Kell's conduct and their belief that no response would curb the flow of demands. He confirmed the disruption to RPC's normal work.

51. He was cross examined as to a series of incidents which did not greatly illuminate the issues before the Tribunal.

#### The reasons for the Tribunal's decision

52. An imperfect record in matters of governance by a town or parish council does not, of itself, justify a remorseless campaign of complaints and requests for information designed to reform it, however sincere and public – spirited the campaigner or campaigners may be. That such a campaign has been and is being waged in this case is not disputed by Mr. Kell. Whether the motives that inspire it are indeed entirely altruistic we greatly doubt. Our doubts have been significantly fortified by what we saw and heard at the oral hearing, especially the evidence and advocacy of Mr. Kell.

53. We begin by summarizing the Tribunal's findings.

- (i) The value to the public of the information requested by the four Emails of 14<sup>th</sup>. April, 2015 was slight when related to the time and effort required to comply.
- (ii) The greater part of it was not information for the purposes of FOIA

anyway but interrogation as to facts. It was most unlikely that RPC held records responsive to Mr. Kell's questions and he could not identify the records he expected to be available when cross – examined at the hearing. Such an interrogation is an abuse of FOIA. Of course, questions of this kind can often be re- interpreted as requests for recorded information and a public authority should so interpret them, if possible, in the performance of its duty to provide advice and assistance under s.16 of FOIA, especially to requesters who may not be familiar with the principles underlying FOIA. It will be apparent that these considerations do not apply to these requests or this requester or his solicitors.

- (iii) Even taken in isolation, these requests were intended to harass the members and clerk of RPC. They were burdensome to a degree quite disproportionate to their value to the public.
- (iv) However, the requests and questions in fact formed part of an extended and obsessive campaign by Mr. Kell to undermine the clerk and members and publicly demonstrate their supposed inadequacy.
- (v) The List of Complaints and the RPC chronology present a fair picture of the history preceding the requests of 14<sup>th</sup>. April, 2015. We note that Mr. Kell made no real attempt at the hearing to contradict the substance of the List, complaining only that its structure tended to overstate the number of occasions on which complaints were made. The Tribunal had no difficulty in assessing its content and grouping together the complaints/ requests made on a single occasion. There is nothing in Mr. Kell's complaint in this regard.
- (vi) The campaign, as Mr. Kell acknowledged, was inspired by a trivial incident involving the publication of his address in the minutes. If it

matters, the Tribunal is firmly of the view that no breach of the First Data Protection Principle was involved, since, by giving his address at the meeting, he consented to it being processed for the purposes of the meeting. Be that as it may, his reaction was quite unreasonable; no possible harm was done or was ever likely to be done by its being recorded in a PC minute. The insignificant origin of this feud is a telling indicator of Mr. Kell's lack of a sense of proportion.

- (vii) The burden of this extended attack on RPC and its clerk should have been obvious to anyone. Mr. Kell's assertions that his questions could be answered at the drop of a hat by a competent clerk of a compliant council were quite unrealistic; it is doubtful that he believed them himself.
- (viii) That burden was gratuitously increased by allegations of fraud and references to the police of supposedly dishonest or improper practices by clerk and members, apparently without any sound evidential basis. The Tribunal notes that none of them led to a police investigation.

54. This was an unusual appeal where the truthfulness and fair-mindedness of the main witnesses, Mr. Kell, Ms. Miller and Mr. Gilson were in issue.

55. The Tribunal found Mr. Kell an unimpressive witness. Where his evidence conflicted with that of Ms. Miller, for instance on the question of RPC's responses to requests for information in 2013 and 2014, we accepted her account. Equally importantly, we found him opinionated and wholly lacking in a capacity for self – criticism or any sensitivity to the reactions of others. An example was his response to a question as to how he thought council members would react to his unsolicited provision of education packs

to improve their performance. It had evidently never crossed his mind that they might be other than unreservedly grateful, as his witness statement confirmed. Indeed he subsequently made “*repeated offers to pay for councillor training*”, whilst maintaining the barrage of requests and criticisms of RPC.

56. His conduct of the appeal was similarly instructive. Having been alerted by the Chamber President as to the proper focus of this appeal ( see §5) and despite repeated warnings at the hearing as to the futility of raking over the minute details of hostile exchanges quite unrelated to his requests, he pressed on regardless in protracted cross examination of Ms. Miller and Mr. Gilson, apparently more concerned to prove an abstruse point about supposed unlawfulness in the handling of minutes of a meeting than to tackle the substantial issues raised by their evidence. His often hectoring demeanour strongly suggested that this was not so much a misjudgment of what would influence the Tribunal’s decision as an assertion of his own superior understanding of local government and his view as to what should determine the result of this appeal. It was not difficult to envisage the stress that such domineering behaviour put on the members and clerk of RPC.

57. On the other hand, we found Ms. Miller a sensible and reliable witness, though giving the perhaps understandable impression that she was weary of the whole Rothbury saga.

58. We emphasise that these findings do not amount to a total exoneration of RPC. As stated above, we accept that its conduct of council affairs was not flawless. It may well be true that, on some occasions, Mr. Kell met hostility

and even rudeness. If so, however, it is probable that he brought it upon himself by the aggressive stance he adopted and demonstrated at the hearing and the unrelenting pressure that he brought to bear on RPC, a pressure quite disproportionate to its shortcomings or any sincere attempt to assist in overcoming them.

59. Applying to these findings the approach commended in *Dransfield* the Tribunal finds that the stringent demands of s.14 were clearly met in this case. The requests, in so far as they deserved that description, were motivated rather by a desire to pursue a three – year – long vendetta than to seek information in the public interest. They were the culmination of a singularly insensitive campaign to destabilize RPC, conducted through a stream of demands and complaints and fortified by rash and unfounded allegations of impropriety and sarcastic criticism on social media. If they had any value, it was greatly outweighed by the waste of resources which compliance would have involved and the unreasonable pressure imposed, in particular, on the clerk, Ms. Claire Miller.

60. In making these findings we have taken full account of the final written submissions made by Mr. Kell and by Mr. Hopkins on behalf of RPC. We observe that Mr. Kell's voluminous arguments introduced a significant quantity of fresh, hence untested, evidence as to, for instance, the List of Complaints and Chronology. We observe as to that issue that the nature, content and limitations of the former document speak for themselves. Although Mr. Kell's subsequent reply to Mr. Hopkin's submission was unauthorized and uninvited, we read it. It adds nothing of importance. We do not accede to Mr. Kell's invitation to comment, let alone give further

directions as to the procedural complaints that he makes. We took account of all the evidence properly tendered at the hearing.

61. For these reasons we dismiss this appeal.

62. This is a unanimous decision.

David Farrer Q.C.

Tribunal Judge

30<sup>th</sup>. June, 2016