First-tier Tribunal
(General Regulatory Chamber)
Information Rights

Appeal Reference: EA/2017/0029

Decided without a hearing
On 14 December 2017

Before

JUDGE DAVID THOMAS

TRIBUNAL MEMBERS DAVE SIVERS AND GARETH JONES

Between

WILLIAM STEVENSON

Appellant

and

THE INFORMATION COMMISSIONER

First Respondent

and

DEPARTMENT OF HEALTH

Second Respondent

DECISION AND REASONS

NB Numbers in [square brackets] refer to the bundle

1. This is the appeal by Mr William Stevenson against the rejection by the Information Commissioner (the Commissioner) on 12 January 2017 of his complaint that the Department of Health (DH) had wrongly refused to disclose certain information to

him pursuant to two requests he had made under section 1(1)(b) Freedom of Information Act 2000 (FOIA) (the requests).

2. After some prevarication, the parties settled on paper determination of the appeal. The Tribunal was satisfied that it could properly determine the issues without a hearing within rule 32(1)(b) of The Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber**)** Rules 2009 (as amended). [1]

3. There was no closed bundle. The open bundle comprised over a thousand pages. Much of the evidence was, at best, only tangentially relevant but the Tribunal has nevertheless considered it.

Factual background

4. The requests relate to an inquiry set up by the DH into neonatal mortality rates and maternal deaths at the University Hospitals of Morecombe Bay NHS Foundation Trust (the trust or UHMB) and in particular at Furness General Hospital between 2004 and 2013 (the Morecombe Bay Investigation (MBI)). The inquiry was chaired by Dr Bill Kirkup and reported in March 2015.

5. Mr Stevenson has made a number of FOIA requests about the trust and the inquiry, as part of his longstanding campaign about what he sees as the shortcomings of each. It is not clear whether he has a personal interest, as a former employee or family member, or whether he is motivated by what he regards as the public interest. He sees himself as the inheritor of the Hillsborough mantle of persistent campaigning needed to uncover corruption and negligence in public life. Whatever his precise motive, he is entitled to make FOIA requests, provided that they do are not become vexatious within section 14(1) FOIA. The DH and the Commissioner say that the requests are vexatious.

6. The MBI was non-statutory, [2] which meant that witnesses could not be compelled to give evidence. It decided not to hear evidence in public. The DH had what it has described as 'light-touch oversight' of the MBI's spending, key risks and progress but was not involved in evidence-gathering or deliberation **[629]**. After publication of the report, the interview transcripts were transferred to the DH in Autumn 2015.

7. Families who received what they regarded as unsatisfactory care from maternity and neonatal services at Furness General Hospital, Lancaster Royal Infirmary and Westmoreland General Hospital between 1 January 2004 and 30 June 2013 were invited to contact the MBI. Those found to come within its remit were invited to attend open interviews. The term 'open' is something of a misnomer. The DH uses it to mean sessions to which families – usually parents or patients – could attend or of which they could hear recordings. The general public was not allowed to attend or listen to recordings, although brief reports of open sessions were placed on the

[1] SI 2009 No 1976

[2] It was not conducted under the Inquiries Act 2005

MBI's website. Families could not attend closed sessions, which were designed for sensitive clinical or employment information. The MBI conducted 118 interviews. All but three were conducted with an open session but 42 included both an open and a closed session. [3]

8. The department decided in August 2015 to publish the open transcripts (subject to redaction of sensitive material). It informed Mr Stevenson of this on 29 October 2015 and told him that it was expected to take until the Autumn of 2016 to prepare the transcripts for publication. Publication (with some redaction) duly took place in November 2016 (i.e. after the requests).

9. As well as by the MBI, Mr Stevenson is much exercised – indeed, probably more so – by the decision to award foundation trust status to the trust in 2010 and what he describes in his Grounds of Appeal **[17]** as 'the mysterious and very sudden cancellation of the UHMB-NLTPCT [North Lancashire Teaching Primary Care Trust] Board to Board meeting in summer 2010 (a meeting whose existence would have rendered UHMB authorisation on 1.10.10 impossible …)'. However, this is at best only indirectly relevant to the requests.

10. The MBI report concluded that the maternity unit at Furness General Hospital was dysfunctional and that serious failings had led to unnecessary deaths. The report made 44 recommendations.

Earlier Tribunal decisions

11. Mr Stevenson has brought a number of appeals against Commissioner decisions about FOIA requests he has made relating to the trust and/or the MBI.

12. For example, in EA/2011/0119, [4] a case remitted from the Upper Tribunal, the Tribunal decided that Mr Stevenson was entitled to know the names of individuals referred to in a letter dated 14 June 2010 from the Chief Executive of the UHMB to the Chief Executive of the NLTPCT.

13. On 30 November 2015, in EA/2015/0186, the Tribunal dismissed Mr Stevenson's appeal against the Commissioner's decision that the DH did not hold 21 particular transcripts in March/April 2015.

14. Most relevantly, on 19 September 2017 the Tribunal gave its decision in other cases involving Mr Stevenson and DH. Each had appealed from the Commissioner's decision FS50612561 given on 20 September 2016. [5] The appeals concerned whether Mr Stevenson was entitled to some or all of the closed session transcripts of certain senior UMBH employees and the information redacted from certain open session transcripts**.** The exemptions in issue were section 41(1) (information provided in

[3] See para 8 of the DH's Response
[4] 1 October 2013
[5] EA/2016/0240 and EA/2016/0246

confidence) and section 40(2) (third party personal data). Mr Stevenson's appeal failed and the DH persuaded the Tribunal that some information, which the Commissioner had ordered to be disclosed, should be withheld.

The requests

15. Mr Stevenson made two requests, the first on 6 May 2016 and the second on 19 May 2016. They are set out in the Commissioner's decision **[12]-[13]**. Each request is very long, with background material as well as the requests themselves. The first request was itself in two parts: part (a) asked for the transcript of the first interview of Ann Ford (who, it appears, was an employee of the Care Quality Commission (CQC) **[599]**) at the MBI and part (b) for electronic copies of correspondence sent to the 'Furness families' which they were able to view on any 'private website' and which related to interviews held during three specified weeks in September 2014. By 'Furness families', Mr Stevenson presumably means families affected by inadequate care at Furness General Hospital.

16. The second request asked for electronic versions of correspondence with seven named witnesses about the arrangements for their interviews, with another reference to any private websites.

The initial response and review

17. The DH replied to both requests on 1 June 2016 **[579]** along with an earlier request made on 30 April 2016. Its response was itself long. It relied on section 14(1) requests and made the following points:

- The requests followed a line of previous requests, now totalling 30 requests or items of correspondence, since March 2015 relating to evidence given at the MBI

- There had been 10 internal reviews (some of the requests were amalgamated at review), two complaints to the Commissioner and one Tribunal case which found in DH's favour [6]

- The DH estimated that the costs to date, using figures from a costing exercise undertaken by the Ministry of Justice in 2012, came to £9,148, which the department regarded as a 'significant, unnecessary and increasing burden'

- Requests were often repeated or rephrased and submitted prior to the response from the previous request. The three requests to which the department was responding followed the latter pattern. They were each made within days of one another. Repetition extended to requests about the Ford interviews

[6] EA/2011/0119 related to the trust

- The DH's view was that the requests were made 'in the hope of discovering information which would support an entrenched view that the Department holds more information that it does about the evidence given to MBI'. In fact, the department had made it repeatedly clear that there was no further information to provide about the MBI interview records and that all of the open records would be published in the autumn of 2016

- Moreover, the requests were an unreasonably persistent attempt to reopen an issue which had already been comprehensively addressed by the MBI

- The requests made unfounded accusations against the department and specific employees. For example, Mr Stevenson had accused the department of retrospectively labelling some transcripts as closed; and he had referred to the 'wily ways' of the department and Dr Kirkup

- It was apparent from requests made of the DH on 24 November 2015 and 1 December 2015 that he already knew that Ms Ford had open and closed interviews: he knew that her second interview was closed and he therefore already knew some of the information he was now seeking (that her first interview was open)

- The department could have invoked section 14(1) earlier but had desisted from doing so in order to be as helpful as possible

18. The DH informed Mr Stevenson that it intended to rely on section 17(6) FOIA [7] in relation to any future requests.

19. Mr Stevenson requested an internal review on 9 June 2016 **[586]**. Rather unnecessarily, his email began: 'You may claim to be too busy to read this now, but you and the Treasury Solicitor will have to read it eventually'. The email continued in the same vein: there had been a cover-up of the 'machinations' which led to the 'disastrous' October 2010 authorisation of UHMB (as a foundation trust); only Hillsborough-like persistence could uncover that cover-up; it had taken him over three years to obtain certain letters (the Halsall letters of May/June 2010), the most important evidence of a cover-up; the MBI simply continued the cover-up by 'declining to investigate matters about which it did not wish to know the details, with extreme delay in releasing even open session transcripts caused in the hope that the public would lose interest in the Halsall letters'; Monitor – 'one of the prime suspects' – subverted its own rule book for the new trust; Mr Stevenson had

[7] *'(6) Subsection (5) ['A public authority which, in relation to any request for information, is relying on a claim that section 12 or 14 applies must, within the time for complying with section 1(1), give the applicant a notice stating that fact'] does not apply where –*
(a) the public authority is relying on a claim that section 14 applies,
(b) the authority has given the applicant a notice, in relation to a previous request for information, stating that it is relying on such a claim, and
(c) it would in all the circumstances be unreasonable to expect the authority to serve a further notice under subsection (5) in relation to the current request'.

through his diligence extracted from the DH the fact that there were as many as 50 closed sessions: the department would have to be forced to publish the transcripts; the 'FoI squad' at the DH had used section 12 FOIA [cost of compliance] with monotonous regularity to protect MBI from having to address evidence about who was responsible for the authorisation and cover-ups; the DH costings were 'total fiction'; and the department was now deploying desperation in concealing the precise arrangements for the open and closed sessions (and would face the consequences right up to the 'Second Tier Tribunal'): it was not going to be like 30 year old *Yes Minister* scripts where they all got away with it (unlike with Hillsborough).

20. This gives a flavour of the tone of many of Mr Stevenson's communications with the DH and others.

21. The Department gave its review of its handling of both requests on 8 July 2016 **[589]**. It maintained its decision that section 14(1) applied. The review referred to another request [8] made on 30 April 2016 which, like the first of the requests under appeal, concerned the interview given by Ann Ford on 25 September 2014. It asked for the 'status' of that interview – in other words, whether it was open or closed – 'or I'll be obliged to make another FoI request to ensure that I find out well in advance of "autumn of 2016"'.

22. The review, which repeated many of the points made in the initial response, suggested that the history showed that it was extremely likely that 'any response that the DH provides will merely encourage you to submit further requests'. The department reiterated that all open records of interviews would be published in Autumn 2016.

Proceedings before the Commissioner

23. Mr Stevenson's complaint to the Commissioner **[607]** is another discursive document. He refers at some length to the decision to authorise UHMB as a foundation trust and its subsequent collapse into 'years of special measures' **[17]**. He accuses the Commissioner of deliberately delaying one of his previous complaints and of showing 'loyal support' for the refusal of various bodies connected with UHMB to disclose information. The Commission had fought and lost another appeal brought by Mr Stevenson up to Upper Tribunal level. [9] In relation to the MBI interviews, there had been extraordinary secrecy. After referring to a book by a father about the death of his son at one of the hospitals, Mr Stevenson said he had 'a lot more such information including photos of the deceased infants, so I again warn ICO not to support the refusal to disclose information about [that case and two other cases]'. He referred to 'all these delaying and obfuscating tactics' by DH and to 'all the ambiguity, weaselling and downright untruths' promulgated by it.

[8] FOI - 1032285

[9] FtT reference EA/2011/0119

The Commissioner's decision

24. The Commissioner noted that Mr Stevenson had made 26 requests between March 2014 and April 2016, all but one of them during 2015 and up to April 2016. His requests now averaged two a month, a very high frequency.

25. She concluded that the requests were vexatious. She placed weight on the cumulative burden placed on the DH through Mr Stevenson's use of FOIA. The department had provided a large amount of information to him and a further sizeable amount had been published. Mr Stevenson persisted in making unfounded allegations against the MBI and the DH. Many of his requests were overlapping and submitted before a previous one had been answered. Mr Stevenson had told the Commissioner that he had a strategy of submitting correspondence constituting a preliminary request and then following it up with a 'proper' request. Mr Stevenson's requests were, as the DH argued, an unreasonably persistent attempt to open an issue that had already been comprehensively addressed. The MBI report into Furness General Hospital had been published as had now the open transcripts. There was no supporting evidence for Mr Stevenson's allegations against the MBI and the DH

The Grounds of Appeal and the Responses

26. In his Grounds of Appeal **[17]**, Mr Stevenson again discussed the background, including the decision to award foundation trust status to UHMB, and repeated his criticisms of the MBI and Dr Kirkup in particular, accusing the latter of many 'failures of curiosity'. He prayed in aid Professor Sir Brian Jarman, who chaired the Bristol Paediatric Heart Surgery Inquiry, and the Francis Inquiry into Mid-Staffs Hospital. He criticised the DH's reliance on section 12 (in other cases).

27. Tellingly, Mr Stevenson finished his Grounds as follows:

> '*The requests were overtaken by events – owing to the fact that the Commissioner is now taking up to 8 months from complaint to Decision Notice, by the time the decision was issued [on 12 January 2017] the information had been published. Owing to my specialist knowledge, I was able to see from the open transcripts which were issued that I did not need to seek the closed session transcripts which were linked in some way to the information requested here. Therefore, I seek only the removal of "vexatious" and "troublemaking pain in the ********" designation from the public documents. I can't do much about the private opinion of me other than by giving up the quest, and I'm not about to do that*'.

By 'information', he presumably meant the Ford transcript he had requested: the particular information about interview arrangements he had requested has not been published. It is not clear whether he still wants that information.

28. Earlier in his Grounds, he had said that he could not allow the 'vexatious' label to stand because it would be used by the DH and the Commissioner as a means of rejecting future FOIA requests: that would be detrimental to the public interest because there was still a long way to go. He again drew comparison with Hillsborough. It is clear, therefore, that he intends to make further requests of the DH.

29. In her Response **[40]**, the Commissioner referred [10] to the statement on the Government's website [11] at the outset of the MBI that '[d]etails of the oral evidence sessions will be published on this website when available …'. The MBI website, [12] the Commissioner said, listed the names and organisations of those interviewed as well as short summaries of open interviews. She set out the history of Mr Stevenson's FOIA requests. A number related to interview transcripts. Many adopted a sarcastic tone. They recorded his determination to pursue his quest. For example, a request for an internal review on 17 August 2015 said that he accepted 'the challenge to pursue these transcripts to the bitter end … I may be getting on a bit but's not very likely that I will peg out before the war is over, never mind this present battle …'.

30. The Commissioner referred to the legal tests for section 14(1) FOIA discussed in the Upper Tribunal [13] and Court of Appeal [14] in *Dransfield* (see below). She pointed out that the question for the Tribunal was not whether there was any serious purpose or value in challenging the conduct or findings of the MBI but rather in the requests under consideration. She also suggested that it appeared from the first request that what Mr Stevenson really wanted was to be told whether the first Ford interview, conducted on 25 September 2014, was open or closed, not the transcript of that interview. Whether the interview was open or closed was of less value than the transcript itself. In any event, Mr Stevenson had not explained why that particular transcript was so important.

31. In relation to the requests for information about interview arrangements, the Commissioner pointed to the interview protocol which had been on the Government website since at least March 2015. [15] There was no evidence of any 'private' websites, as Mr Stevenson suggested in his requests. She did not dispute that there may have been some value or purpose in the requests, for transparency and accountability purposes, but insufficient, she maintained, in light of the other factors pointing to vexatiousness (as identified in her decision).

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[10] Para 4

[11] https://www.gov.uk/government/organisations/morecombe-by-investigation/about

[12] https: www.gov.uk/government/publications/interviews-by-the-morecombe-bay-investigation

[13] GIA/3037/2011

[14] *Dransfield v Information Commissioner and another; Craven v The Information Commissioner and another* [2015] EWCA Civ 454

[15] In EA/2016/0240, the Tribunal recorded the concession made by the secretary to the MBI that confidentiality assurances given to witnesses went beyond the protocol: see paras 13 and 27

32. The DH's Response also set out the factual background, including the history of Mr Stevenson's FOI requests. It made the point [16] that, on a fair reading, the MBI report contained 'damning criticism' of the Trust as well as of other regulatory and NHS bodies (including Monitor, the CQC, NLTPCT, the Lancashire North Clinical Commissioning Group and the DH). The Response noted [17] that, in EA/2015/0186 (see above), the Tribunal found that the department had been 'entirely well-intentioned' and to have acted in good faith in relation to the relevant requests, despite breaching section 10 FOIA. The MBI had made public the fact that the 25 September 2014 Ford interview was open, as Mr Stevenson knew. The DH explained in detail why, in its view, the requests had little or no value. Applying the four tests laid down by the Upper Tribunal in *Dransfield* (see below), the requests were vexatious. The Response annexed the history of dealings with Mr Stevenson.

33. The department developed some of the points in Written Submissions dated 7 September 2017 but they do no materially advance its case.

34. In Mr Stevenson's Final Submissions dated 21 September 2017, he again drew attention to what he regards as the failings of the trust and the MBI. He said that it was only 'my suspicion of evasive and tortuous replies from DoH which extracted the list of about 65 closed session interviews; even now, the MBI website only revealed five such sessions'. He attached a diagrammatic summary 'of the failures leading to the authorisation of UHMB and the subsequent cover-up of responsibility and culpability'. He did not explain how the information requested was relevant to those failures and cover-up. He provided some notes on the 'UHMB disaster'.

Discussion

35. Other than the DH's costings, Mr Stevenson does not appear to dispute the essential facts relied on by the Commissioner for her finding of vexatiousness, although he does, of course, dispute that they amount to vexatiousness.

36. As noted, the leading authority on section 14(1) FOIA is the Court of Appeal decision in *Dransfield*. The only substantive judgment was given by Arden LJ. She cited [18] this passage from the Upper Tribunal decision:

> *'27. … I agree with the overall conclusion that the [Tribunal] in Lee [Lee v Information Commissioner and King's College Cambridge] reached, namely that "vexatious" connotes "manifestly unjustified, inappropriate or improper use of a formal procedure". 28. Such misuse of the FOIA procedure may be evidenced in a number of different ways. It may be helpful to consider the question of whether a request is truly vexatious by considering four broad issues or themes – (1) the burden (on the public authority and its*

[16] Para 12
[17] Footnote 13
[18] Paras 18 and 19

staff); (2) the motive (of the requester); (3) the value or serious purpose (of the request) and (4) any harassment or distress (of and to staff). However, these four considerations and the discussion that follows are not intended to be exhaustive, nor are they meant to create an alternative formulaic check-list. It is important to remember that Parliament has expressly declined to define the term "vexatious". Thus the observations that follow should not be taken as imposing any prescriptive and all-encompassing definition upon an inherently flexible concept which can take many different forms'.

37. Arden LJ then said::

> *68. In my judgment, the UT [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. I understood Mr Cross [Counsel for the Commissioner] to accept that proposition, which of course promotes the aims of FOIA.*
>
> …
>
> *72. Before I leave this appeal I note that the UT held that the purpose of section 14 was "to protect the resources (in the broadest sense of that word) of the authority from being squandered on disproportionate use of FOIA" (UT, Dransfield, Judgment, para. 10). For my own part, I would wish to qualify that aim as one only to be realised if the high standard set by vexatiousness is satisfied. This is one of the respects in which the public interest and the individual rights conferred by FOIA have, as Lord Sumption indicated in Kennedy [Kennedy v Charity Commission [2014] 2 WLR 808] (para. 2 above), been carefully calibrated*'.

38. There is, therefore, a high hurdle for a public authority to cross before it may rely on section 14(1). All the circumstances of the case have to be considered. On one side of the equation, these include the burden on the public authority, the motive of the requester and any harassment of distress caused to staff. On the other side is the value of the information to the requester or the public. Value is likely to be a particularly important factor, because of the need to promote the aims of FOIA to

facilitate transparency in public affairs, accountability of decision-making and so forth.

39. There is no question that the requests, particularly when seen in the context of all the dealings between Mr Stevenson and the DH, contain several indicia of vexatiousness: as summarised by the Commissioner, Mr Stevenson is unreasonably persistent; he has made numerous overlapping requests (often not waiting for a response before submitting another); he has without substantiation made serious allegations attacking the integrity of DH staff; and there is every reason to suppose that he will make further FOIA requests (indeed, he has promised to see the 'war' through to 'the bitter end' and, in an email on 5 May 2017 to HMCTS **[208]**, said that the DH and the Commissioner had designated him a 'vexatious serial FoI requester' 'as a means of refusing the future FoI requests they know I will make').

40. The only question is whether the requests have sufficient serious purpose or value to save them from being condemned as vexatious. The Tribunal has concluded that they do not.

41. The first Ford transcript – the subject of part (i) of the first request – has now been published. That is not strictly relevant because whether a request is vexatious has to be viewed at the time it was made. Even at that time, however, this request had very little value. Mr Stevenson has not explained why he wants that transcript in particular, and indeed, as the Commissioner has noted, what he seems really to want to know was whether the interview was open or closed. [19] As the DH has pointed out, he already knew that information. But even if he did not, whether open or closed had little value at the time of the request. Mr Stevenson had been told repeatedly by the DH that open transcripts would be published and the DH had told him in the Autumn of 2015 that publication was expected in around a year. Even allowing for slippage, a few months after the request, he would therefore find out if the first Ford interview was open or closed, if he did not already know.

42. In addition, there is no reason why he could have expected to receive the transcript itself (if open) earlier than its intended publication. There was negligible value in advancing the publication of this particular transcript by a few months. But for deciding that the requests were vexatious, the DH could have relied, in relation to the Ford transcript, on the exemption in section 22 FOIA (information intended for future publication), with the public interest in publication of all the open transcripts at the same time outweighing any slight advantage from early publication of the Ford transcript.

43. Part (ii) of the first request and the second request are similar in that they each asked for electronic communications from the MBI, to the Furness Families and seven identified interviewees, relating to the arrangements for their attendance at interviews during particular weeks or on particular dates. Each request refers to

[19] See para 63 of the Response

'any private website'. It is not altogether clear whether Mr Stevenson only wanted communication via such websites but it is likely that he did. To that extent, there is, as the Commissioner noted, no evidence of such private websites and the requests are therefore predicated on a false premise (and therefore have no value). Even if Mr Stevenson also sought communications sent otherwise than through any private websites, he has failed to explain what he thought communications of an administrative nature could might reveal to support his suspicions of wrongdoing by the UHMB or lack of rigour by the MBI. This information, too, has very little if any value.

44. In short: the information requested had negligible value to set against the unreasonable burden Mr Stevenson has imposed on the DH and would, if unchecked, no doubt continue to impose.

45. The Tribunal stresses that it fully accepts that the subject-matter of the MBI – inadequate care and neonatal and maternal deaths – is of the highest public importance. The rigour and objectivity with which the MBI pursued its task and the circumstances in which the UHMB achieved foundation trust status are of similarly high importance. Mr Stevenson is fully entitled to pursue his campaigns about both. From time to time, public bodies are guilty of corrupt behaviour and cover-ups and it almost invariably requires dogged persistence by publicly-spirited individuals or organisations, aided by the media, to reveal wrongdoing. Public inquiries, formal or informal, are sometimes inadequate. The rigorous scrutiny of those in public life is a fundamental requirement of democracy.

46. However, the critical question for the Tribunal in the context of section 14(1) is whether the particular requests at issue have real value, not whether the underlying issues are important. Even when viewed simply as pieces in a jigsaw Mr Stevenson wishes painstakingly to create, in the Tribunal's judgment they do not. It is not enough for Mr Stevenson to suspect wrongdoing or even firmly to believe it. There must be reasonable grounds for that suspicion or belief, and a requester must, if his request is to avoid being labelled as vexatious, demonstrate how the requested information could realistically help to advance his quest and why, therefore, it has value. Mr Stevenson has failed to do that. Conspiracy theorising is no substitute for evidence or rational argument.

47. In EA/2015/0186, one of Mr Stevenson's earlier appeals, the Tribunal remarked: [20]

> '*I observe with regret the persistent and wholly unfounded accusations of bad faith and dishonesty which characterised too much of [Mr Stevenson's] correspondence and submissions. They contrasted sharply with his tone at the hearing when confronted with those allegedly responsible for such misconduct. Unjustified invective and exaggeration, especially where they involve express or implied attacks on the personal integrity of named or unidentified parties, cut no ice with judges and are not excused*

[20] Para 36

by the unquestionable sincerity and commitment with which a requester pursues an entirely legitimate campaign'.

48. That was said before the requests in the present case. It is greatly to be regretted that Mr Stevenson did not take heed of the advice. He has continued to make persistent and unfounded accusations of bad faith and dishonesty, including in relation to the present requests. He can hardly complain that the DH has, belatedly, relied on section 14(1). It should be quite possible to conduct a rigorous campaign without casting aspersions on the integrity and motives of all who may come within one's sights, unless one has clear grounds for the aspersions (and even then only if necessary for the case one wishes to make).

Conclusion

49. For these reasons, the appeal is dismissed. The requests are vexatious. The decision is unanimous.

Signed

Judge Thomas
Judge of the First-tier Tribunal
Date: 26 February 2018

Promulgated: 2 March 2018