



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

Appeal Reference: EA/2020/0190V

**Heard by video platform
On 4 February 2021**

Before

JUDGE CHRIS HUGHES

TRIBUNAL MEMBERS

RAZ EDWARDS & JEAN NELSON

Between

JOHN CAMERON

Appellant

and

INFORMATION COMMISSIONER

First Respondent

WIMBLEDON AND PUTNEY COMMON CONSERVATORS

Second Respondent

Appearances:-

Appellant:	in person
First Respondent:	did not appear
Second Respondent:	Christopher Knight

Cases:

**Evans v WPCC and LB Wandsworth [2014] EWCA Civ 940
Dransfield v Information Commissioner**

DECISION

The appeal is dismissed

REASONS

1. WPCC is a statutory body created by the Wimbledon and Putney Commons Act 1871 ("the 1871 Act") which created the Common and vested title to it in the WPCC, a body of trustees, with the duty to preserve the Common. In 1911 WPCC permitted access across a part of the Putney Lower Common to allow access to a newly built hospital on land which was not part of the Common. The hospital was closed and the site passed into the ownership of LB Wandsworth which, against the wishes of some local residents, obtained planning permission in 2013 to develop the site. To facilitate the use of the site WPCC granted an easement over part of the Common, this was challenged and the right of WPCC to grant the easement was upheld by the High Court and the Court of Appeal. In giving his judgement in the High Court Mr Justice Wyn Williams commented on the scheme of the Act;-

"The overall objectives of the Act are expressed in its preamble which expressly recognises that "it would be of great local and public advantage if the commons were always kept unenclosed and unbuild on, their natural aspect and state being, as far as may be, preserved" (my emphasis in italics).

In my judgment the existence of the qualifying words in sections 34 and 36 and in the preamble demonstrate that Parliament was conferring a degree of flexibility upon the Defendant in relation to the manner in which it complied with its duties. While I accept, without hesitation, that the duties imposed upon the Defendant and the overall objectives of the Act have as their central aim the concept of preserving the natural environment of the commons it is clear, in my judgment, that the Defendant's duties do not require them to defend every blade of grass come what may in the event that it is called upon to consider the exercise of its powers in respect of a proposal which affects the natural environment of the commons. The Defendant is entitled to make a judgment about the exercise of its powers which takes account of the likely impact of a proposal upon the commons as a whole if that is appropriate as well as considering the impact upon the particular part of the commons in which the proposal is located. In the instant case, therefore, it seems to me that the Defendant must consider not just the impact of the grant of the rights contained within the Deed of Easement upon the part of the common directly affected i.e. the parts over which physical alteration will take place and immediate environment of those places. It is also entitled to consider whether the grant of such rights will result in beneficial or negative effects on the commons as a whole either directly, or indirectly."

2. Giving the judgement of the Court of Appeal upholding the decision of the High Court, Lord Justice Patten observed:-

"No-one has hitherto objected to the use of parts of the Common for purposes of access to the hospital site and I am left with the strong impression both from what was said at the hearing and from the appellant's own evidence that the points now taken about the legitimacy of the grant of the proposed rights of way are largely directed to frustrating what local residents consider to be the over-intensive development of the Site but have not succeeded in challenging through the planning process."

3. Mr Cameron was associated with the group which opposed the grant of planning permission and he helped fund the costs of the judicial review proceedings. He was elected to the Conservators in 2015 and continued to serve until 2018.

The request

4. On 5 November 2018 Mr Cameron wrote to Wimbledon and Putney Common Conservators (WPCC) requesting information:-

***"Freedom of Information/Environment Information Regulations -
WPCC/Lease of land to the Royal Wimbledon Golf Club for a private car park***

I wish to make a request under FOI/EIR in respect of the lease of land by the WPCC to the RWGC.

As you are aware the 1871 Act states that it is unlawful for the Conservators to sell, lease, grant or in any manner dispose of any part of the commons. The lease of land to the RWGC for a private car park is a material breach of the Act and is unlawful. The Commons are kept "forever open and unenclosed" and the grant of a substantial car park for the private benefit of a golf club cannot be squared with this legal obligation. At the time of the sale of the lease, the charity trustees will have received professional advice, including the value of the land leased to the RWGC. The professional advice will have been in the form prescribed by charity law.

1. *Copies of all "Qualified Surveyors Reports" and/or "valuations" and/or "valuation advice" (whether in formal reports/otherwise) procured by the WPCC up until the lease was granted.*
2. *If there was subsequent advice in respect of value, post the grant of the lease, I wish to receive that advice as well.*
3. *Copies of all other professional advice received at the time of the sale (ie from Counsel or solicitors etc acting for the WPCC), for example that the sale was in breach of the act, and unlawful.*
4. *Copies of all other information which is held in respect of the sale (ie correspondence between management/trustees/advisers/insurers and so on)."*
5. WPCC replied to him on 23 November 2018 explaining to him (as he was aware from previous dealings and from having been a Conservator between 2015 and 2018) that WPCC was not subject to FOIA. WPCC explained that it

had never entered into a lease or sale arrangement with RWGC for lands that comprise any part of the WPCC, the information request was about a non-existent lease therefore there was no information. However it provided information about how, when it lost the use of a maintenance building on land owned by the LB Wandsworth in the 1970s, it secured the lease to WPCC of land owned by the golf club (and therefore not part of the Common) for 60 years from 1981 for a new maintenance building. It provided the history of other time-consuming requests for information which Mr Cameron had made and it refused to comply with the request under EIR on the basis of regulation 12(4)(b) as it considered the request was manifestly unreasonable. In responding to this Mr Cameron called WPCC disingenuous. The WPCC offered a meeting between Mr Cameron and the new Chair of the Conservators, the meeting failed to resolve the issue. WPPC commissioned an external, independent person to conduct an internal review, she upheld the position of WPCC. Mr Cameron complained to the Information Commissioner (ICO).

The Information Commissioner's Investigation

6. In her decision notice the ICO reviewed the previous engagement between Mr Cameron and WPCC since 2012 which included aggressive abusive and defamatory comments about staff and trustees on public websites, campaigning to disrupt the work of WPCC, repeated complaints to the Charity Commission accusing them of serious misconduct and imposing considerable burdens on WPCC by his requests:-

WPCC explained that if it believed that complying with the request would resolve the matter, it may have taken the decision to provide the information despite the concerns outlined above. However, it considered that provision of the requested information would likely encourage the complainant to submit additional requests for information relating to Board decisions. It would result in further unwarranted criticism by the complainant through social media and correspondence with WPCC, as well as prolonging a debate on the lawfulness of WPCC's decisions.

7. Mr Cameron argued that:-

- what WPCC was trying to do was unlawful,
- their mismanagement of another transaction was being investigated by the Charity Commission,
- there ought to be transparency,
- there was little burden in disclosing the information, and
- the Charity Commission's draft conclusions supported his views.

8. The ICO acknowledged that Mr Cameron had serious concerns, but observed:-

“she considers that there is clear evidence of obsessive and unreasonable behaviour on his part. Much of the information provided by the complainant is documentation of his own concerns, with little, if any, independent evidence of wrongdoing by WPCC. The Commissioner has seen no evidence that there are systemic issues, and indeed notes that the decisions relating to the subject of the current request were made by differently constituted management boards in the 1970s and 2005”.

9. With respect to his provision of draft findings by the Charity Commission:-

“The complainant provided the Commissioner with commentary regarding the Charity Commission’s draft report in which he heavily criticises the Charity Commission for not drawing similar conclusions to his own. The Commissioner considers this to be evidence of the complainant’s unwillingness to accept independent scrutiny which does not align with his own view.”

10. She criticised the tone of much of Mr Cameron’s communications to WPCC:-

“Having had sight of the relevant information the Commissioner accepts WPCC’s description of the complainant’s tone and language as intemperate, antagonistic and on occasion, abusive. She considers that there is little justification for such behaviour and acknowledges that it has caused distress and a feeling of harassment among WPCC staff.”

11. She considered that Mr Cameron was pursuing a wider campaign against WPCC, that the requests were a significant burden and disproportionate to the claimed benefit and that the exemption was engaged.

12. In weighing the public interest she noted the steps taken by WPCC to ensure transparency, the historic nature of the information, the lack of public interest in the issue despite Mr Cameron’s campaign on the issue. She found his persistence was disproportionate and was *not persuaded that there is a strong public interest in locating, identifying and considering every piece of information held by WPCC relating to the car park agreement, which is essentially the scope of the request in question.* The public interest in the issues raised with the Charity Commission would be addressed by the Charity Commission’s investigation rather than by the information request. She upheld the position of WPCC in a decision notice of 12 May 2020.

The appeal

13. Mr Cameron appealed against the IC decision. He submitted that:-

- the request had a serious purpose since the arrangement with the golf club was illegal,
- he had not been intemperate or abusive,
- the WPCC had the resources to deal with the request,
- the request was not burdensome, and

- the public interest lay in disclosure.

14. In resisting the appeal the ICO relied on the decision notice. She also drew attention to correspondence from the Charity Commission which pointed out that material Mr Cameron had relied on and was reflected in paragraph 50 of the DN was draft, had been provided on a confidential basis to a limited number of people to enable them to make representations and did not reflect the conclusions of the Charity Commission. Paragraph 50 had stated:-

“The complainant advised that the Charity Commission had opened a statutory inquiry into a previous sale of land at Putney Common, which was ongoing. The complainant stated that the Charity Commission had now concluded that there was mismanagement and misconduct and that the trustees did not follow the law, were not correctly advised and incurred a substantial loss on this sale and that the transaction was not in the best interest of the charity.”

15. The Charity Commission issued its report on 2 July 2020. On its website it published a statement on the report:-

“The Charity Commission has concluded its inquiry into Wimbledon and Putney Commons Conservators, finding that one group of trustees’ inability to manage a long-running dispute is evidence of mismanagement.

The charity was established to preserve the commons for the purposes of exercise and recreation. In 2014, it sold land access rights (an easement) to Wandsworth Borough Council to allow for a road to a primary school and residential flats being developed on part of the commons.

The granting of the easement led to damaging disputes between the trustees over whether it was sold at an undervalue and whether the sale was in the best interests of the charity. The Commission opened a statutory inquiry into the charity in August 2016, after it failed to resolve the issues with advice and guidance from the regulator.

The inquiry did not find any one individual responsible for any incorrect decision, act or omission, but finds the inability of the trustees in post between 2015 and 2018 to manage the dispute resulting from the granting of the easement has been costly to the charity, and is evidence of mismanagement.

The Commission did not make any findings about the decision to grant the easement or the terms of that grant.”

16. The ICO adopted the position of WPCC that Mr Cameron had persisted in an obsessive and unreasonable campaign of harassment against WPCC in the course of which there was abuse of trustees and staff and he published unfounded allegations of dishonesty, made defamatory public statements against WPCC and corresponded with them in abusive, aggressive unprofessional and highly objectionable terms and this had caused distress to

staff, Conservators, volunteers and others. This had imposed a substantial burden due to the volume and depth of the communications this request was in keeping with this general tone. The value of the request was minimal in particular that the request was based on a false premise that WPCC had entered into an unlawful lease or sale which was not the case. The arrangement in question had been in place for 37 years and had been subject to scrutiny when revisited in 2005 despite Mr Cameron's campaigning there was no evidence that car parking caused any substantive concern to anyone else. In balancing the public interest of disclosure, scarce resources should not be squandered in dealing with unreasonable requests. Furthermore the public interest in disclosure was diminished by the approach to publication the board had adopted.

17. In his witness statement Mr Cameron expressed his views on the governance of WPCC and claimed that his conduct had been reasonable in the face of his treatment by WPCC. He stated that during the period he witnessed *"trustees colluding with each other and lawyers who were acting solely to bury the under sale. The Charity Commission investigation was insubstantial and ineffective..."* he claimed the trustees had tried to physically, emotionally financially and legally intimidate him. He asserted that he had not been given access to documents, including historical documents in the WPCC archive relating to previous property transactions. The trustees had suspended him from the governing body of WPCC and the Charity Commission had done nothing. He gave his detailed account of the Putney Hospital controversy. Mr Evans provided a witness statement in support of Mr Cameron. Mr Rutherford, in his witness for Mr Cameron accepted, in discussing Mr Cameron's use of a social media website, that his comments were inappropriate *"While I do not condone the content or manner of many of the Appellant's postings they need to be viewed in context. Some were in my view intemperate, I suspect over time increasingly so "* going on to suggest that this was because Mr Cameron was denied information.
18. On being examined on his evidence Mr Cameron repeated his claim that WPCC had unlawfully leased land. When the distinction between a lease and a licence to occupy was put to him he argued that *"whether a licence or a lease it is unlawful"*. He claimed that he had received legal advice that the transaction was unlawful but wanted to see all the legal advice WPCC held, *"If I am to take it forward it is appropriate to see all the advice"*. He had made a broad request *"to catch all information I could."* *"I am not going to start unless I know everything, otherwise I am shooting in the dark"*.
19. In discussing an information request he had made to WPCC in 2014 he repeated the view he had expressed in correspondence that the only reason to use exemptions under EIR/FOIA was because there was *"something to hide"*. He did not accept that it was proper to claim legal privilege in response to an

EIR information request. He argued that it was not unreasonable to conclude WPCC were hiding things, he alleged deceit and that WPCC *"tried to cover-up"*.

20. In response to criticism of him contained in a report on staff concerns about his behaviour prepared in December 2016 (bundle A176) which described his conduct as *"aggressive, confrontational and rude"* he claimed that he was always polite and he denied the allegations *"this behaviour is not in my make up or behaviour."* With respect to a statement by WPCC chief operations manager that he had referred to his fellow conservators as a bunch of *"lying c..."* in a conversation in April 2017 (bundle A181) he did not disagree that he had used words to that effect.
21. He considered that criticism of WPCC's solicitors draft instructions to a valuer as *"extremely biased and misleading"* as entirely appropriate and he claimed that he had *"reasonably extensive experience"* of such matters. He claimed that the solicitors and one of the conservators had *"failed to declare a conflict of interest"*.
22. A number of comments from his posts on a public forum (www.putneysw15.com) about WPCC were put to him and he did not retract them:-
 - (bundle D601) 20/08/16 WPCC were *"fraudulent"*, WPCC and Wandsworth Council *"couldn't lie straight in bed"*
 - (bundle D610) WPCC trustees were *"spineless lying bunch of hypocrites"*
 - (bundle D635) instructions by a senior member of staff to a professional firm were *"leading, biased and factual inaccurate on a material issue"*
23. Dr R Taylor who was a Conservator from 2013-2020 gave evidence on behalf of WPCC. Her detailed evidence gave a clear account of the Mr Cameron's behaviour and its impact on WPCC and inconsistencies of his statements and actions:-
 - He repeatedly made unsubstantiated, untrue distressing allegations against the board of WPCC and individuals causing harm and damaging reputations
 - in a posting on the www.putneysw15.com site in December 2015 he described his relationship with WPCC as war and the appeal to the Court of Appeal as *great fun, would happily do [i]t again*
 - he was unable to accept any opinion which did not agree with his own, including the findings of the Charity Commission
 - BWB, a firm of solicitors was engaged by WPCC in 2015 to consider issues around the easement and charity law. It raised the issue of a potential conflict of interest given Mr Cameron's role in the litigation. Mr Cameron did not accept this and made a series of complaints against

BWB's professional integrity and indicated that he would litigate against them, this led BWB to decline to act.

- On 7 April 2015 he had had been given access to the 1979 agreement between WPCC and RWGC, the 1981 lease for the maintenance centre, the 2005 deed of variation, detailed notes about the 1970s arrangements and leading counsel's advice on the deed of variation. As a conservator he had had access to what he now wished to have disclosed to the world.
- Numerous unsuccessful attempts had been made to work constructively with Mr Cameron when he was a conservator, however these were unsuccessful. The Charity Commission report had found that the conservators had incurred costs of over £260,000 plus VAT in connection with the trustee dispute about the easement.
- in his manifesto for election in 2018 he stated that he was in favour of the seating on common land outside the Spencer public house, since then he has denounced the presence of the seating, made a detailed FOIA request about it, complained to the Charity Commission (who investigated and found no breach of the 1871 Act) and in a period of 21 days sent 14 e-mails to the Chair of WPCC on the subject

24. The current Chair of the trustees Ms DKN Mills in her statement detailed interactions she had had with Mr Cameron including

- The substantial amount of time she had to spend on the Spencer pub benches, which were placed under licence on the Common for a few months each summer under an agreement originally reached in 2010. The benches were available to all (not just pub customers). He had complained to the Charity Commission about the pub benches and the Commission ruled in July 2018 that there was nothing of concern.
- On 3 September 2018 he had made a detailed request under FOIA about Mill House, a property WPCC had been forced to sell under leasehold law in 2006. WPCC provided a history of the issue (voluntarily); Mr Cameron had insisted on his right to the information and had unsuccessfully complained to the ICO who had found it was not environmental information.
- On 5 November he had made the same detailed request as for Mill House but amended to refer to the golf club.
- On 11 October 2019 he had made a detailed request about a process of constitutional reform WPCC had started on in April 2018, including for all legal advice. She had responded identifying the many pieces of information already published by WPCC, explaining that much information was privileged or protected by data protection law and that much of the work was preparatory and public consultation was planned to be part of the process. WPCC had concluded that the request was vexatious/manifestly unreasonable.

- Following the ICO decision with respect to this information request concerning RWGC, two of his close associates made similar requests, which were declined and Mr Evans then then made request for internal review, requiring further expenditure on finding an independent person to conduct the review. Mr Cameron posted on Putneysw15 details of his request, that significant costs were incurred in dealing with it and inviting others to make similar requests.
25. In addition she detailed his deliberate leaking (while a trustee) of a draft response to a press inquiry to the journalist concerned as well as other incidents of misconduct and misuse of his position and access to information as a trustee. As a result the then CEO of WPCC spent a large proportion of his time dealing with Mr Cameron in order to shield other more junior members of staff from his aggressive and rude behaviour which caused them to be afraid to deal with him.
26. Material in the bundle shows complaints were made about Mr Cameron in August 2016 about his conduct after entering a site at the edge of the Common where authorised tree-felling works were being carried out next to an electricity sub-station, during this intrusion he challenged the activity and moved a chain-saw. A statement by a security guard records that on the 29th of September 2016 he saw Mr Cameron crawling under a gate onto the building site he was guarding. He challenged Mr Cameron, the statement records “he told me it was common land and he could move freely about the site. I told him it was a construction site and no one was allowed into the site for health and safety reasons, so he must leave or I would call the police. The intruder became very angry and abusive to me”.

Consideration

27. There is a presumption in favour of disclosure of environment information. However a body which is subject to EIR may refuse to disclose information if the request is manifestly unreasonable and the balance of public interest does not favour disclosure. The analysis of what may be manifestly unreasonable was carried out by the Upper Tribunal in Dransfield and upheld by the Court of Appeal. Four broad issues or themes were identified as of relevance when deciding whether a request is vexatious. These were:
- (a) the burden (on the public authority and its staff);
 - (b) the motive (of the requester);
 - (c) the value or serious purpose (of the request); and
 - (d) any harassment or distress (of and to staff).

While these considerations are not exhaustive and need to be considered holistically they are helpful to the tribunal in considering the mass of information before it.

28. As to burden the context and history of the particular request, in terms of the previous course of dealings between the individual requester and the public authority in question, must be considered in assessing whether the request is properly to be described as manifestly unreasonable. In particular, the number, breadth, pattern and duration of previous requests may be a telling factor. In this case meeting the request would impose a significant burden. The request spans a period of over 40 years, several transactions and would require consideration of various exemptions to disclosure contained in EIR. Furthermore it follows on from a similar request which would also require considerable searching and consideration of exemptions. Mr Cameron has over the years made a large number of requests for information. The context of the previous course of dealings demonstrates the considerable burden and cost Mr Cameron has imposed on WPCC.
29. With respect to motivation, Mr Cameron takes a very concrete and absolute view of the legal framework for the Common. He is unhappy with any person or body which disagrees with him. Despite the findings of the High Court (paragraph 1) he views any arrangement relating to any part of the Common, whether an easement or a licence as a corrupt breach of duty by the trustees and from that basis considers himself entitled to take any steps or make any slur on the probity of his opponents which comes to mind. The motivation for his actions in supporting the judicial review of the easement was clearly identified by the Court of Appeal (paragraph 2) as frustration about the grant of planning permission for the Putney Hospital site. Since then he has seen his relationship as a war (Putneysw15 post noted in paragraph 23 above) and has considered himself entitled to pursue that conflict by any means that he sees fit.
30. In his grounds of appeal he stated his purpose in making the request that he wished to have the information so that he can decide whether to start litigation against WPCC. *“Knowing some but not all the facts it would be possible for Mr Camron to challenge the lawfulness of the enclosure of the common in legal proceedings. To do so would involve him in considerable expense, not all of which would be recoverable; but, more importantly, would expose him to the risk of costs.”* It is clear however that he has seen the key documents already when he was a trustee, indeed he appears to have taken copies of them despite an instruction not to do so. He has already supported unsuccessful litigation to the Court of Appeal on the powers of the trustees, precisely the point he claims he is seeking to raise here, with the added difficulty being that he continues to deliberately conflate two terms with fundamentally different meanings, lease and licence.
31. The Charity Commission in its report (which was a result of Mr Cameron’s campaign against WPCC) was careful not to apportion blame to individuals however it did not conclude that in the granting of the easement the trustees had broken the law, it found that the internal dispute had cost considerable

amounts of money and *“the administration, management and governance of the charity has now significantly improved, in particular since the trustee elections of 2018”* (when Mr Cameron ceased to be a trustee). It may be noted that he did not accept his duty of confidentiality in dealing with the draft report when he used it in his complaint to the ICO.

32. Mr Cameron appears entirely unaware of or indifferent to the impact his behaviour has on other people; however the impact he has had on the staff, trustees, volunteers of WPCC with his constant barrage of denigration, insult, and claims of criminality is substantial.
33. The tribunal is satisfied that the request is manifestly unreasonable. Furthermore there is no public interest in the disclosure of the material, which is of historic interest only. The public is aware of the arrangements between WPCC and RWGC and despite Mr Cameron’s repeated false statements of the position, is not concerned.
34. This request is the latest manifestation of Mr Cameron’s obsessive pursuit of his war against WPCC and is a gross abuse of the statutory framework of EIR.
35. The ICO’s decision notice is clearly correct and the appeal is dismissed.
36. The provisions of GRC rule 10(1)(b) are drawn to the attention of the parties.

Signed Hughes

Judge of the First-tier Tribunal

Date: 8 March 2021

Promulgated: 12 March 2021