



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

**Appeal Reference: EA/2021/0169**

**Decided without a hearing on 12 November 2021**

**Before**

**JUDGE ANTHONY SNELSON  
MS KATE GRIMLEY EVANS  
MS KATE GAPLEVSKAJA**

**Between**

**MR D GLADWIN**

Appellant

**and**

**THE INFORMATION COMMISSIONER**

Respondent

**DECISION**

The unanimous decision of the Tribunal is that the appeal is dismissed.

**REASONS**

*Introduction*

1. By an email of 13 December 2019 sent to the Chief Operating Officer ('COO') of the National Museum of Science and Industry ('the Museum'), the Appellant, to whom we will refer by name, made a request for information ('the request') in (so far as material) these terms:
  1. Please supply a copy of the Terms of Reference of yourself ...
  2. Please advise what progress has been made in the improvement of educational facilities at your Aerospace division, which you stated in your letter following our meeting was "lacking".

3. **Please supply a copy of the terms of reference of (a) the Chair of Trustees and (b) each trustee.**
4. **A copy of the terms of reference of the manager of the Wroughton site.<sup>1</sup>**
2. The Museum responded through an email of 10 January 2020 from the Freedom of Information Team of the Science Museum Group, advising that the request was judged to be vexatious and accordingly would not be responded to. An internal review followed, which resulted in the original response being reaffirmed.
3. By an undated letter delivered on 14 September 2020 Mr Gladwin complained to the Respondent ('the Commissioner') about the way in which the Museum had dealt with his request. An investigation followed.
4. By her Decision Notice dated 3 June 2021, the Commissioner determined that the request was vexatious and the Museum had been entitled to refuse it.
5. By his notice of appeal dated 26 June 2021 Mr Gladwin challenged the Commissioner's decision.
6. By her response dated 4 August 2020 the Commissioner resisted the appeal, essentially on the grounds set out in the Decision Notice.
7. The appeal came before us for consideration in private on 12 November 2021, the parties having consented to the matter being determined on the papers. We had before us a bundle of documents running to 173 pages.

*The applicable law*

8. The Freedom of Information Act 2000 ('FOIA'), section 1(1) enacts a general right of access to information held by public authorities. 'Information' means information recorded in any form (s84).
9. By s14(1), a public authority is excused from complying with a request for information if the request is "vexatious". In *Dransfield v Information Commissioner and Devon County Council* [2012] UKUT 440 (AAC), the Upper Tribunal ('UT') (Judge Nicholas Wikeley), at para 27, expressed agreement with an earlier first-instance decision that –

**"... vexatious", connotes "manifestly unjustified, inappropriate or improper use of a formal procedure."**

The judge continued (para 28):

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<sup>1</sup> The Museum is located in Manchester but has a storage site at Wroughton airfield near Swindon.

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 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 ... are not intended to be exhaustive, nor are they meant to create an alternative formulaic check-list.

10. *Dransfield* and a conjoined case were further appealed to the Court of Appeal. Giving the only substantial judgment (reported at [2015] 1 WLR 5316), Arden LJ (as she then was) noted (para 60) that the UT's guidance just cited was not directly in issue on the appeal, but added these remarks (para 68):

**In my judgment, the UT 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 this 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.**

11. The appeal is brought pursuant to the FOIA, s57. The Tribunal's powers in determining the appeal are delineated in s58 as follows:

- (1) If on an appeal under section 57 the Tribunal consider -
- (a) that the notice against which the appeal is brought is not in accordance with the law; or
- (b) to the extent that the notice involved an exercise of discretion by the Commissioner, that he ought to have exercised his discretion differently,

**the Tribunal shall allow the appeal or substitute such other notice as could have been served by the Commissioner, and in any other case the Tribunal shall dismiss the appeal.**

- (2) On such an appeal, the Tribunal may review any finding of fact on which the notice in question was based.

*The background facts*

12. On the material presented to us, we record the following brief facts, which appear to be largely uncontroversial.
- 12.1 Mr Gladwin has a strong interest in aviation. He is an active member of a number of groups and societies including at least one which concerns itself with model aircraft. He is also a member of the Honorary Company of Air Pilots, a City of London Livery Guild.

- 12.2 In or about 2014 Mr Gladwin pursued an unsuccessful campaign to persuade the Museum to grant an extended lease at the Wroughton site to a model aircraft group with which he was associated.
- 12.3 Mr Gladwin was greatly dissatisfied by the outcome of the discussions over the proposed lease and engaged in sustained correspondence with the Museum on that and other subjects during the years which followed.
- 12.4 Mr Gladwin also presented requests for information to the Museum under FOIA, the last of which, prior to that giving rise to this appeal, was made in 2016.
- 12.5 In his correspondence with the Museum Mr Gladwin has not hesitated to make strong allegations, including charges of gross incompetence and even dishonesty.
- 12.6 That correspondence has been increasingly dedicated to personal attacks on the manager of the Wroughton site, calling into question his competence and integrity on numerous occasions.
- 12.7 Mr Gladwin has enlisted the support of, among others, his MP.
- 12.8 Mr Gladwin has also sought to interest the Department for Digital, Culture, Media and Sport ('DCMS') in his complaints about the Museum. Eventually, in 2018, DCMS advised him that his concerns disclosed "no case to answer" and that it would be engaging no further with his correspondence.
- 12.9 One matter which in recent times (since 2019) has caused particular offence to Mr Gladwin, and elicited repeated, hostile complaints in correspondence from him, has been the Museum's unwillingness to make the Wroughton site, which is undergoing long-term works and is not open currently to visits by members of the public, available by special arrangement for a private visit by his Guild.
- 12.10 Mr Gladwin's correspondence on this subject has included remarks sarcastically (and irrelevantly) comparing the status and commitments of the manager at Wroughton (disparagingly referred to, in inverted commas, as the 'station commander') with those of the Chief of the Air Staff.
- 12.11 In recent times Mr Gladwin has taken to writing to individual trustees directly. In one case at least he has sent correspondence to a trustee's home address.
- 12.12 Another feature of Mr Gladwin's correspondence is his practice of referring to senior military figures alleged to be "awaiting an update".
- 12.13 In his notice of appeal, Mr Gladwin included the following remarks:

**Of course my complaints are directed against the Wroughton manager, who else? ...  
Yes I AM putting pressure on the individual as a result of HIS actions ...  
I believe allowing a significant part of our national Aviation heritage to fall into disrepair  
and disuse IS a matter of public interest.**

### *Conclusions*

13. We are satisfied that this appeal is without merit and that the Commissioner's decision was plainly right. We have several reasons. In the first place, we do consider that allowing the appeal would have the consequence of imposing a disproportionate burden on the Museum. Although the request may appear quite narrow, it has four separate elements to it. Moreover, the request relating

to education might well necessitate a substantial search before an appropriate response could be given. We bear in mind that the question of disproportionate burden has to be addressed in context. This is a case in which, over years, Mr Gladwin has already imposed very substantial burdens upon the Museum. That background needs to be taken into account in assessing the impact of the latest request.

14. Secondly, we must have regard to the value and underlying purpose of the request. In our judgment, the request has very little intrinsic value. Any statement of the responsibilities of the COO or of the trustees would, we think, be a matter of very little significance. No doubt it would consist of a less than enlightening list of unremarkable objectives and duties designed to further the interests of the Museum, its visitors and wider society. On the face of it, the request relating to education might appear potentially to have somewhat more value. That having been said, we consider that the purpose underlying the entirety of the request is plainly not to further education or to gather a fuller understanding of the role and function of trustees. Nor is it to explore the serious allegations of gross incompetence, dishonesty and even misfeasance in public office. It is instructive that the request was not directed to any of those matters and no evidence in support of them was presented to the Commissioner in the course of her enquiry. Rather, it is plain to us that Mr Gladwin's core aim is to extract further information to serve as ammunition in anticipated future hostilities with the Museum. Moreover, we regret to say that we are driven to the view of that his determination to perpetuate those hostilities is born of a personal grudge arising out of the failure of the lease negotiations and the more recent refusal of a private visit. His purpose in making the request was not within the spirit or intention of FOIA. On the contrary, it amounted to an abuse of the legislation.
15. Thirdly, a point which flows directly from our conclusions on the purpose underlying the request, we are quite satisfied that entertaining the request and requiring the Museum to answer it would, so far from resolving the differences between it and Mr Gladwin, merely result in extending and aggravating the conflict between them.
16. Fourthly, for reasons already largely given, we can see very little public interest in the subject-matter of the request. We have acknowledged that there is, on the face of it, a modest degree of public interest in the element directed to education. But we are very clear that any such benefit is heavily outweighed by the contrary factors already identified.
17. Fifthly, the aggressive and persistent style adopted by Mr Gladwin and his tactic of targeting the manager of the Wroughton site and the trustees personally have, in our judgment, amounted to intimidation and harassment. Robust pursuit of the important constitutional right to freedom of information is to be expected. But regrettably, Mr Gladwin has overstepped the mark by a

substantial margin. Such behaviour is unfortunately one of the hallmarks of vexatious FOIA requests.

18. Sixthly, we have reminded ourselves that holding the request vexatious does not deprive Mr Gladwin of his right as a citizen to employ any of a wide choice of other lawful means in order to hold the Museum, as a public body, to account.

*Outcome*

19. The appeal is dismissed.

(Signed) Anthony Snelson  
Judge of the First-tier Tribunal

Dated: 22 November 2021

Promulgation Date: 26 November 2021