IN THE FIRST-TIER TRIBUNAL **EA/2011/0077**
GENERAL REGULATORY CHAMBER
[INFORMATION RIGHTS]

ON APPEAL FROM:

Information Commissioner's Decision Notice: FS50324650
Dated: 24 February 2011

Appellant: ELAINE COLVILLE

Respondent: THE INFORMATION COMMISSIONER

Second Respondent: THE DEPARTMENT FOR INTERNATIONAL DEVELOPMENT

On the papers

Date of hearing: 13 September 2011

Date of Decision: 18 October 2011

Before

Annabel Pilling (Judge)
Roger Creedon
and
Rosalind Tatam

Subject matter:

FOIA – Vexatious or repeated requests s.14

Cases:
Coggins v Information Commissioner (EA/2007/0130)
Carpenter v IC and Stevenage Borough Council (EA/2008/0046)

Representation:
For the Appellant: Elaine Colville
For the Respondent: Richard Bailey
For the Second Respondent: Sarah Townsend

Decision

For the reasons given below, the Tribunal upholds the Decision Notice of 24 February 2011 and dismisses the appeal.

Signed:

Annabel Pilling

Tribunal Judge Dated: 18 October 2011

Reasons for Decision

Introduction

1. This is an Appeal by Ms Elaine Colville against a Decision Notice issued by the Information Commissioner (the 'Commissioner') dated 24 February 2011.

2. The Decision Notice relates to a request made by Ms Colville under the Freedom of Information Act 2000 (the 'FOIA') to the Department for International Development ('DfID') for information relating to audited World Bank Group ('WBG') trust fund accounts.

3. DfID refused the request on the basis of section 14 of FOIA as the request was considered vexatious. That decision was upheld by the Commissioner in his Decision Notice. The Appellant now appeals against that decision.

Background

4. DfID is a central government department that promotes international development and the reduction of poverty. DfID is headed by the Secretary of State for International Development. The UK Government, through DfID, donates funds to the WBG, an international organisation which comprises the International Bank for Reconstruction and Development ('IBRD', more commonly known as the 'World Bank'), the International Finance

Corporation ('IFC'), a private sector affiliate, and the Multilateral Investment Guarantee Agency ('MIGA').

5. The factual background in this case arises from the handling by the WBG and DfID of two distinct sets of allegations raised by the Appellant, who is a former employee of the IFC. The allegations as summarised by the Appellant are:

   (1) corruption in the WBG's internal justice system (IJS) and perversion of justice committed by senior and other WBG officials flowing from an action in which the Appellant was a party in 2003 in which newly disclosed material obtained in 2007 shows, according to the Appellant, a nexus with allegation (2);

   (2) breach of the institutional law of the IFC governing acceptance and use of UK (and other donor) trusts funds for international development technical assistance purposes (under, in the UK's case, the provisions of the International Development Act 2002.)

6. Over the years, the Appellant has used several avenues of complaint in hope of potential redress or action against the WBG and DfID. These include Ministers of DfID, Members of Parliament, The Serious Fraud Office, the Commissioner, the Cabinet Office, the World Bank President and World Bank Executive Directors. All of these have been in relation to her allegations of fraud within the WBG and, in many cases, her allegations of DfID's collusion in these frauds. In many instances, the response from those individuals or entities has led to complaints against them or about the way in which her allegations were dealt.

The request for information

7. The Appellant made a request under FOIA by email to DfID on 29 April 2010:

   "Reference the list of trust fund accounts audited by Ernst and Young per information in the WBG Modified Cash Basis Trust Funds Combined Financial Statement issued in September 2009 (attached):

a) *To which of the named individual accounts did the UK provide/receive contributions; when; in what total amount?*

b) *Did DfID receive, in which case when, and does it hold, copies of the audited financial statements in respect of the receipts, disbursements and fund balance for the year ended June 30 2009 for each trust fund account administered by the WBG to which UK contributions were made and/or monies received by the UK?*

c) *Have each of the relevant financial statements for each relevant trust fund account been subject to internal audit by DfID and to external audit by the NAO?"*

8. On 28 May 2010 DfID informed the Appellant that her request was considered to be vexatious under section 14(1) of FOIA and, as such, they were not obliged to comply with it and would not be processing it any further. Reference was made to previous correspondence from DfID explaining that *"..we believe that your request is causing unjustified disruption and harassment to DfID and placing an excessive burden on public resources."*

9. The Appellant set out her reasons for disputing the decision to consider her request as vexatious in an 8 page letter dated 31 May 2010 requesting an internal review of this decision.

10. The Director of Business Solutions responded on 14 June 2010 having carried out an internal review and upheld the original decision that the request was considered to be vexatious under section 14(1) of FOIA.

> *"This request was the latest in a sequence of related FOI requests made by you. In addition you have made complaints and representations which have been fully investigated by DFID and other bodies. Dealing with these requests and complaints has taken up a considerable amount of time and resources for a number of DFID staff, including some very senior staff. In my view it is correct to conclude that your request forms part of a vexatious campaign,*

and responding to you would cause unjustified disruption and harassment, placing an excessive burden on public resources."

11. The Appellant responded on 15 June 2010 'to take issue with a number of points raised' in the DfID review letter. She subsequently made a formal complaint against the Director for failing to reply to her response. DfID informed her that her letter (and a follow up email) had not been received as they had been emailed to the wrong address. The Appellant then made a further request under FOIA seeking information relating to email addresses and staff with the same name as the Director of Business Solutions.

The complaint to the Information Commissioner

12. The Appellant complained to the Commissioner on 20 July 2010.

13. The Commissioner commenced an investigation, focusing on whether or not DfID's claim that the request was vexatious under section 14 is accurate and whether the information requested should have been provided. He required DfID to explain the reasoning behind the decision to consider the Appellant's request to be vexatious. DfID's response is contained in a letter to the Commissioner dated 26 November 2010 (which, in line with usual practice, was not seen by the Appellant until the preparation for this Appeal).

14. The Decision Notice was issued on 24 February 2011. In summary, the Commissioner concluded that the request had been correctly deemed vexatious under section 14 of FOIA, taking into account the background and surrounding context of the request.

The Appeal to the Tribunal

15. By Notice of Appeal dated 22 March 2011, the Appellant appeals against the Commissioner's decision.

16. The Tribunal joined DfID as Second Respondent.

17. The Appellant is not represented in these proceedings. She has submitted detailed submissions supported by other material which she considers the Tribunal should take into account when deciding this Appeal.
18. The Grounds of Appeal document is 78 pages long and very detailed. It contains some repetition and deals with many matters that fall outside the jurisdiction of the Tribunal and the scope of this Appeal.

19. Pursuant to an application by the Commissioner, grounds 2 and 3 of those advanced by the Appellant were struck out under Rule 8(2)(a) of The Tribunal Procedure (First-tier) Tribunal (General Regulatory Chamber) Rules 2009 (the "Rules") on the basis that these matters did not fall within the jurisdiction of the Tribunal and did not amount to reasonable grounds of appeal.

20. The sole ground for the Tribunal to decide in this case is whether the Commissioner erred in concluding, on the balance of probabilities, that the request of 29 April 2010 was vexatious and that therefore DfID were entitled to refuse to comply with the request under section 14(1) of the Freedom of Information Act 2000.

21. The Appeal was determined at a hearing on the papers on 13 September 2011.

22. The Tribunal was provided in advance with an agreed Bundle of material, a bundle of authorities and written submissions from the parties. The Appellant provided additional material to the Panel; she had asked the Commissioner to include these items in the Agreed Bundle, but the Commissioner did not consider the additional material relevant to the issue to be determined. Part of this additional material took the form of an unpaginated bundle of email correspondence that was not in chronological order and the relevance of each individual email not made clear. We did not find this helpful, particularly as it had been stressed throughout the appeal process the reasons for the need to have an agreed bundle of material for each of the Panel members to aid our deliberations. We did however take

the additional material into account. Although we do not refer to every document, we have had regard to all the material before us.

23. It is important to note that it is not for the Tribunal to resolve the complaints or allegations about wrongdoing by DfID or the WBG raised by the Appellant in respect of which she is not satisfied. It is clear from the voluminous material provided to us by the Appellant that she continues to believe her actions are necessary to unveil injustice, such that she has pursued many different avenues over the years, and is likely to make a complaint or further allegation if the individual or entity has not provided the result or remedy she sought.

The Powers of the Tribunal

24. The Tribunal's powers in relation to appeals are set out in section 58 of FOIA, as follows:

> *(1) If on an appeal under section 57 the Tribunal considers-*
>
> *(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.*
>
> *On such an appeal, the Tribunal may review any finding of fact on which the notice in question was based.*

25. The starting point for the Tribunal is the Decision Notice of the Commissioner but the Tribunal also receives evidence, which is not limited to the material that was before the Commissioner. The Tribunal, having considered the evidence (and it is not bound by strict rules of evidence), may make different findings of fact from the Commissioner and consider the

Decision Notice is not in accordance with the law because of those different facts. Nevertheless, if the facts are not in dispute, the Tribunal must consider whether the applicable statutory framework has been applied correctly. If the facts are decided differently by the Tribunal, or the Tribunal comes to a different conclusion based on the same facts, it will find that the Decision Notice was not in accordance with the law.

The Legal Framework

26. Under section 1(1) of FOIA, any person making a request for information to a public authority is entitled, subject to other provisions of the Act, (a) to be informed in writing by the public authority whether it holds the information requested, and (b) if so, to have that information communicated to him.

27. The section 1(1)(b) duty of the public authority to provide the information requested will not apply where the information is exempt by virtue of any provision of Part II of FOIA.

28. Section 14 of FOIA does not provide an exemption as such. Its effect is to render inapplicable the general right of access to information contained in section 1(1).

29. Section 14 of FOIA provides for two distinct situations in which a public authority is not obliged to comply with the section 1(1) duty. DfID and the Commissioner rely only on section 14(1).

> *Section 14(1): Section 1(1) does not oblige a public authority to comply with a request for information if the request is vexatious.*
>
> *Section 14(2): where a public authority has previously complied with a request for information which was made by any person it is not obliged to comply with a subsequent identical or substantially similar request from that person unless a reasonable interval has elapsed between compliance with the previous request and the making of the current request.*

30. The term "vexatious" is not defined further in FOIA and is therefore to be given its ordinary meaning. The Commissioner has published Awareness Guidance to public authorities suggesting the correct approach to determining whether a request is vexatious. In our opinion, the Guidance is just that and should not be used in too formulaic a way by public authorities, the Commissioner or the Tribunal.

31. We agree with what a differently constituted Panel of this Tribunal said in *Coggins v Information Commissioner* (EA/2007/0130):

> *"A decision as to whether a request was vexatious within the meaning of section 14 was a complex matter requiring the weighing in the balance of many different factors. The Tribunal was of the view that the determination whether a request was vexatious or not might not lend itself to an overly structured approach."*

32. While each Appeal must be decided on its own facts and other decisions of the Tribunal are not binding, we found it helpful to look at the decision of a differently constituted Panel of this Tribunal in *Carpenter v IC and Stevenage Borough Council (EA/2008/0046)* in which the Tribunal reminded itself of the principles that have emerged from previous cases in relation to section 14 of FOIA, (and then went on to set the context for the way in which Regulation 12 (4)(b) EIR should be applied):

    (1) It is important to ensure that the standard for establishing that a request is vexatious is not too high;

    (2) The various considerations identified in the Commissioner's Guidance on Vexatious Requests are a useful interpretive guide to help public authorities to navigate the concept of a "vexatious request". There should not however be an overly-structured approach to the application of those considerations and every case should be viewed on its own particular facts.

    (3) When deciding whether a request is vexatious a public authority is not obliged to look at the request in isolation, unlike the majority of cases which are said to be "motive blind" or "applicant blind". A public authority could consider both the history of the matter and

what lay behind the request made in the past by the complainant. A request could appear, in isolation, to be entirely reasonable yet could assume the quality of being vexatious when construed in context;

(4) Every case turns on its own facts. Considerations which may be relevant to the overall analysis include:

a) the request forming part of an extended campaign to expose alleged improper or illegal behaviour in the context of evidence tending to indicate that the campaign is not well founded;

b) the request involving information which had already been provided to the applicant;

c) the nature and extent of the applicant's correspondence with the authority and whether this suggests an obsessive approach to disclosure;

d) the tone adopted in the correspondence being tendentious and/or haranguing;

e) whether the correspondence could reasonably be expected to have a negative effect on the health and well-being of the officers; and

f) whether responding to the request would be likely to entail substantial and disproportionate financial and administrative burdens.

33. The public interest in the disclosure of the requested information is not a relevant consideration.

Submissions and Analysis

34. We have taken into account the following considerations in our analysis of whether this request was vexatious.

Number of requests for information under FOIA and volume of correspondence with DfID

35. There was a dispute between the parties over the number of requests for information under FOIA made by the Appellant to DfID.

36. We have been provided with a schedule or summary from each party in respect of the relevant number of requests.

37. We are satisfied that, up to and including this request, the Appellant made 8 requests for information under FOIA to DfID between October 2007 and April 2010:

(1) 16.10.07 - request for DfID/IFC Project Agreements.

(2) 3.12.09 - request for trust fund law governing the relationship between DfID and WBG[1].

(3) 17.12.09 – request of 3.12.09 amended but Appellant asked that DfID treat these as two separate requests.

(4) 24.12.09 – series of requests for WBG Executive Directors voting and decisions[2].

(5) 15.1.10 – request concerning how DfID ministers and officials handled issues contained in Appellant's letter of complaint to the British Executive Director of the WBG dated 28.9.07.

(6) 15.1.10 – series of questions relating to a named official of DfID. The Appellant submitted that this was a request under the Data Protection Act 1998 ('DPA') and should not be regarded as relevant to an assessment of whether this request under FOIA is vexatious. We

[1] Subject to an appeal to the Tribunal –EA/2010/0189
[2] Subject to an appeal to the Tribunal – EA/2011/0010

disagree as this was not a request for the Appellant's personal data and DfID properly dealt with the request as a request under FOIA.

(7) 8.2.10 – series of questions in respect of when DfID seeks legal advice.

(8) 29.4.10 – this request.

38. In addition, the Appellant made two Subject Access Requests under the DPA in respect of her personal data during that period.

39. We also note that, as with this request, many of the requests were for a number of pieces of information. A letter containing a request for information also frequently included the Appellant's views, statements of fact or allegations, and extended excerpts from other correspondence or publications.

40. We do not consider that 8 requests for information under FOIA made over a period of 2 ½ years would amount to an excessive number, per se. If these requests in isolation were the only correspondence the Appellant had with DfID over that period, in our opinion the argument for treating this request as vexatious would be a good deal weaker. But, as these requests are part of a number of exchanges between the Appellant and public authorities, we must consider them in the context of that background.

41. We have been provided with a large selection of correspondence from the Appellant to DfID and other individuals or entities which is evidence of the extensive campaign the Appellant has undertaken in her pursuit of what she considers to be the appropriate response to her allegations. We must consider this against the factual background as it exists; it is not for us to decide if her allegations are made out or not. The allegations have been reported to the relevant individuals or bodies, a response was given to the Appellant, she remains dissatisfied. It is clear from the correspondence that the Appellant remains convinced that her allegations have merit and she intends to pursue them regardless of DfID's attempt to draw a line under the matter.

Does the Appellant's correspondence with DfID suggest an obsessive or unreasonable approach?

42. As we have already indicated, we have been provided with a vast amount of background material. This request was made in the context of the Appellant's allegations about the WBG and her dissatisfaction with the way in which DfID and others have dealt with those allegations.

43. This background material has given us a flavour of the correspondence and the action taken by the Appellant whenever an answer was given with which she was dissatisfied or an answer was not provided as speedily as she would have liked.

44. We consider that this is evidence of the Appellant's unrealistic expectations and the obsessive way in which she pursued her various chains of correspondence. On many occasions on which the Appellant has "chased" a response or responded to an answer provided, her emails contain further information, references to additional reports/material, and other observations, often made using intemperate language. Her opinion is often stated as fact. From the many examples to which we could have referred, several stand out and we include them here to give an illustration.

45. The Appellant sent an email to the Secretary of State, Douglas Alexander, on 28 January 2008 chasing a response to a complaint she had brought to his attention about the WBG in October 2007. This was followed by a chasing email sent on 31 January 2008, a maximum of two working days later, when it would be fair to assume that the email was one of many items of correspondence requiring attention by the department. A DfID official did respond to her allegations on 1 February 2008 – *"officials have considered the information and are not convinced there is any reason for the UK Government to become involved in what appears to be a personnel issue between you and your former employer."*

46. The Appellant does not consider that this response answered the issues she had raised and her reaction was to send an email indicating an intention to seek judicial review of that decision and making allegations that

"Ministers continue to withhold or suppress key evidentiary documents", a "*promise*" to provide a "*complete response*" being broken, *"deliberate obfuscation"*, *"complicity in wrongdoing"*, *"gross dereliction of duty"*, and preferring to *"cover up knowledge of fraud and criminal offence.*"

47. Dissatisfied with the perceived inaction of DfID, the Appellant made a complaint to the Parliamentary and Health Services Ombudsman (PHSO) in February 2008 alleging serious failures, lack of impartiality and accountability on the part of Ministers and their officials to investigate her allegations of fraud and serious criminal misconduct in the World Bank. The PHSO decided not to pursue the matter and explained why she found no evidence of maladministration of DfID's handling of the matter and, therefore, no basis for an investigation by the PHSO. The Appellant was discontented with this decision and responded with a 17 page letter requesting a review and accusing the investigator/PHSO office of "*maladministration and lack of good faith*." She also wrote directly to the Parliamentary Commissioner for Administration explaining that although she had asked for a review, she had *"no confidence in the integrity of your Office to conduct the review impartially or in a manner that would work justice for me.*

The case manifestly shows improper, dishonest or oppressive motive in the exercise or refusal to exercise a public function/s.

I have had enough of conduct by UK and international public institutions which amounts to perverting the course of justice in circumstances where the "course of justice" is fictitious (i.e. created by those carrying out an integrity test).

In all the circumstances. I believe there are, or there may be, grounds for referral to the Crown Prosecution Service for misuse of public office and/or aiding and abetting misconduct in public life.

This would be an extremely serious step. I therefore offer you an opportunity to comment."

48. This appears to us to be an example of the Appellant claiming further maladministration or collusion when the decision given by the agency is not

the one the Appellant seeks. On this occasion it was accompanied with a threat of criminal prosecution.

49. The Appellant provided us with a document from May 2009 indicating that she had "first" brought her allegations to the attention of:

    (i) Alexander Gibbs, Treasury official and British Executive Director to the IMF and WBG in September 2007;

    (ii) Her MP;

    (iii) The Secretary of State for DfID;

    (iv) A complaint to the Parliamentary Ombudsman;

    (v) International Development Select Committee;

    (vi) A complaint to the Property and Ethics Team of the Cabinet Office who *"washed their hands of the matter"*;

    (vii) The Prime Minister;

    (viii) The Comptroller and Auditor General, National Audit Office, *"another washing of the hands matter"*;

    (ix) Sir Philip Mawer, Independent Adviser on Ministers, copied to the Public Administration Select Committee.

50. In July 2009 the Appellant wrote to the Principal Procurator Fiscal Depute of the International Co-operation Unit at the Crown Office in Edinburgh asking her to consider attached correspondence to tell the Appellant whether there was a case to be answered by any person who may be guilty of any relevant offence under the Scottish criminal justice system. The individuals accused by the Appellant of *"wrongly covering up knowledge of illegality"* in connection with her allegations against the WBG included the Prime Minister, the Chancellor, the International Development Secretary, other politicians, and the Parliamentary Commissioner.

51. All of these are examples from the volume of correspondence we consider evidence to support the view that the Appellant is unlikely to be satisfied with the action taken by any individual or body in respect of her allegations, but which will result in further correspondence, often containing allegations of "aiding and abetting" or "covering up" wrongdoing.

The tone used in the correspondence

52. In our opinion, the selection of correspondence we have seen reveals a tendency to use intemperate or threatening language. The correspondence to the Parliamentary Commissioner for Administration is one example. We have also seen an email to named member of DfID's FOI team: *"Those who persist in trying to cover for the corrupt conduct of their colleagues will get what they deserve in due course."*

53. While conceding that the language of the requests is not offensive in itself, the Appellant has made a number of unsubstantiated and serious allegations against particular individuals and entities.

Effect of request on DfID

54. The Appellant has made clear that she did not *intend* her request to be vexatious. Whilst recognising her statement of good intent, this is irrelevant under FOIA as the issue here is the effect of the request on the public authority.

55. We have been provided with no evidence that any individual was personally affected by the volume or tone of the Appellant's request or other correspondence. We had differing views in respect of the intemperate and sometimes threatening language used by the Appellant; either the staff were likely to be robust and used to receiving communications containing such intemperate language, or they would be unsettled by the language and the threats made by the Appellant.

56. While we do not consider that the correspondence could reasonably be expected to have a negative effect on the health and well-being of the DfID staff, it is clear that it had the effect of annoying and upsetting staff.

Responding to the request would be likely to entail substantial and disproportionate financial and administrative burdens

57. DfID explained that in their deliberations on how to handle this request, they felt that DfID had come to the end of the road in their attempts to assist the Appellant.

> *"We felt that we could and should no longer sustain this prolonged cycle of correspondence which was causing considerable and unjustified disruption and distraction to many DFID staff (including the FOI team, the DFID policy team, Internal Audit Unit, senior staff in the Top Management Group and ministers.) It is also putting a considerable burden on the public purse as a result of the time we (and other government departments) were spending on it and causing a significant degree of annoyance inasmuch as DFID has done as much as it can to assist [the Appellant]."*

58. In particular DfID referred to the sheer volume and frequency of the requests and complaints which often overlapped, were added to or amended in quick succession to the point of confusion or were often so voluminous that they imposed a significant administrative burden and a distraction from staff's core duties.

59. DfID submits that every member of staff in DfID's wider FOI team has spent time dealing with the Appellant's requests for information, internal reviews or complaints to the Commissioner. They estimate that they have spent around 30 person days dealing with the Appellant's requests and complaints and that more time has been spent by other DfID teams in dealing with her extensive correspondence. This includes the policy team, Top Management Group, Internal Audit Unit and has involved discussion with other government departments, for example, the Foreign Office, Cabinet Office, Treasury Solicitors and Parliamentary Ombudsman. All avenues have been exhausted in their opinion.

60. DfID is of the view that as all responses to FOI requests were met with complaints and accusations that they were deliberately hiding information or covering up wrongdoing. If they answered this request, it would inevitably lead to further correspondence or further requests for information. This is borne out by the evidence. The sample of correspondence we have included in this Decision demonstrates the doggedness of the Appellant and it is reasonable to infer that this would continue.

61. This correspondence is evidence to support the view that the Appellant is unlikely to be satisfied until DfID takes some sort of criminal proceedings or other action against WBG. The Appellant remains dissatisfied at the perceived lack of action taken by the UK Government in respect of allegations/complaints she has raised concerning the WBG. On the existing factual background, the allegations have been made and responses provided. We have no jurisdiction to go behind those responses.

Request not substantially similar to other requests for information

62. The Appellant submits that each of her requests for information is distinct and different in nature therefore they could not be regarded as substantially similar or repetitive. It appears that the Appellant is confusing the second distinct situation in which a public authority is not obliged to comply with the section 1(1) duty provided for in section 14(2):

> *Section 14(2) of FOIA: where a public authority has previously complied with a request for information which was made by any person it is not obliged to comply with a subsequent identical or substantially similar request from that person unless a reasonable interval has elapsed between compliance with the previous request and the making of the current request.*

63. DfID relied on section 14(1) in this case and therefore section 14(2) is not relevant. We therefore make no ruling on the distinctiveness of the requests.

Serious purpose or value?

64. The Appellant's reason for the request is that *"information in the audited WBG 2009 Trust Fund Report presented an anomaly the applicant could not reconcile."*

65. The Appellant considers that *"DfID has deliberately withheld every legitimate request for information I have made, and the reasons for that is quite simply to prevent me from getting at fact-finding and truth-telling in regards a number of serious matters."*

66. Both DfID and the Commissioner accept that the request had a serious purpose. DfID has stated that if the request had been made by someone other than the Appellant it would have been processed in the usual way. We make it clear that this is not to say that the information would have been provided. As the request was not processed in the usual way, DfID have not indicated whether the information is in fact held, if so whether it could be provided without exceeding the appropriate cost limit or whether there would be an exemption to its disclosure. It is in the context of prior dealing with Appellant that has led to reliance on section 14.

Conclusion

67. Not one single factor would necessarily lead to a finding, by itself, that the request was vexatious. However in analysing the number of factors that are present in this case and the strength of those factors for the reasons set out in detail above, we have concluded that the Commissioner was correct to reach the decision that DFID were entitled to treat the request as vexatious under section 14(1) of FOIA. Accordingly, we dismiss this appeal.

68. Our decision is unanimous

Signed:

Annabel Pilling

Tribunal Judge Dated: 18 October 2011