IN THE UPPER TRIBUNAL **Case No:** GIA/252/2015
ADMINISTRATIVE APPEALS CHAMBER

DECISION BY THE UPPER TRIBUNAL (ADMINISTRATIVE APPEALS CHAMBER)

The DECISION of the Upper Tribunal is to dismiss the appeal.

The decision of the First-tier Tribunal (General Regulatory Chamber) dated 10 November 2014 does not involve an error on a point of law. The appeal is therefore dismissed.

This decision is given under section 11 of the Tribunals, Courts and Enforcement Act 2007.

REASONS

Introduction

1. This appeal revisits the issue of vexatious requests set out in section 14(1) of the Freedom of Information Act 2000 ["FOIA"] in the light of the guidance given by the Court of Appeal in *Dransfield v The Information Commissioner and Devon County Council [2015] EWCA Civ 454*. There were essentially two live matters in this appeal: first, whether the First-Tier Tribunal ["FTT"] had correctly given weight to the nature of the requests made and had conducted an appropriately rounded assessment in the light of the high hurdle required to satisfy section 14(1); and second, whether the evidential basis for the FTT's decision was sufficiently clear. This case is one of two appeals which I heard on the same day and which concern the adequacy of the evidential basis for the FTT's conclusions about the application of section 14(1) to a request for information.

2. I conclude that, first, the FTT correctly approached its task under section 14(1) of FOIA and, second, that the evidential basis for the FTT's decision was sufficiently clear. I have expressed some misgivings about both the inadequacy of the information relating to Mr Parker's dealings with the Health Research Agency contained in the Information Commissioner's Decision Notice and the FTT's analysis of the history of FOIA requests made prior to summer 2013. The high hurdle for satisfaction of the section 14(1) test requires an appropriately detailed evidential foundation before the tribunal which addresses the course of dealings between the requester and the public authority. This need not be compendious or exhaustive but must explain those dealings in sufficient detail and put them into context.

3. The public authority concerned, the Health Research Authority, chose not to participate in this appeal. I held an oral hearing of this appeal on 8 July 2016. Mr Parker represented himself and the Information Commissioner ["IC"] was represented by Mr Christopher Knight of counsel. I am grateful to both of them for their written and oral arguments which I have found enormously helpful. I have read the First-Tier Tribunal and the Upper Tribunal bundle carefully (including the material handed to me at the hearing) before coming to my conclusions.

Background

4. What follows is a summary pertinent to this appeal. The requester and Appellant was Mr Colin Parker. The public authority to whom the request ["the Request"] was made on 27 September 2013 was the Health Research Agency ["the HRA"].

5. Mr Parker was a volunteer on one of the Research Ethic Committees operated by the HRA and in December 2009 his five year term of appointment came to an end. The HRA decided not to reappoint Mr Parker for a second term and it is clear that he felt unjustly treated by that decision. He attempted unsuccessfully to bring a claim in the Employment Tribunal but found that its jurisdiction did not extend to committee members since they were not treated as employees for the purposes of employment legislation. In 2012 Mr Parker made a complaint to the senior management of the HRA about his treatment and, when this was not upheld, he renewed that complaint to the Deputy Chief Executive of the HRA. That second complaint was rejected but in July 2013 Mr Parker asked the Deputy Chief Executive of the HRA to reconsider her rejection of his more recent complaint.

6. In addition to the above steps, Mr Parker made complaints to the Health Service Ombudsman and the relevant Government Minister, all of which were unsuccessful. He contacted the National Research Ethics Advisors' Panel for a review of his case but this failed to give him the redress he sought.

7. Mr Parker also lodged FOIA requests with the HRA in 2008, 2011 and in July 2013. These all touched on the broad issue of the HRA's processes in terms of committee appointments and any complaints in respect of these. In 2011 he also made a subject access request under the Data Protection Act 1998. The July 2013 FOIA request asked for all the available information about the powers and responsibilities of the HRA Board and on 9 August 2013 the HRA provided Mr Parker with links to that documentation.

8. However, a day earlier on 8 August 2013, the Chief Executive of the HRA had written to Mr Parker stating that it would not answer his correspondence in the light of the history of complaint to it and other

bodies. This was because the time and expense required to correspond with him could no longer be justified. Mr Parker's response to that letter was to lodge a further FOIA request on 13 August 2013 asking for the "*legal and temporal parameters*" of what he could and could not raise with the HRA. At the same time he also made a further subject access request under section 7 of the Data Protection Act 1998. The August 2013 FOIA request was refused on the grounds that the information was not held by the HRA but Mr Parker was not satisfied with this response and made a complaint to the IC. That complaint resulted in an eventual determination by the FTT on 5 July 2014 against Mr Parker [case number EA/2014/0019]. An application for permission to appeal to the Upper Tribunal was unsuccessful.

9. On 23 August 2013 Mr Parker made another FOIA request in five parts, seeking the "*determinations*" of the HRA Board on matters relating to complaints. The HRA responded with a link to its complaints policy and told Mr Parker that all Board meetings were in the public domain and that further publication of HRA Values papers would be made shortly. This response prompted the Request on 27 September 2013 which is the subject of this appeal. This was in 8 parts but was materially in the same form as the request made on 23 August 2013 save that, rather than asking for "*determinations*", Mr Parker asked for the Board's "*record and information on its consideration*" of various issues.

10. The HRA applied section 14 to the Request on 3 October 2013. Mr Parker exercised his right to complain to the IC who investigated and concluded that, given the history of dealings between Mr Parker and the HRA, Mr Parker's persistence had reached the stage where it could reasonably be described as obsessive and his FOIA requests were designed to cause disruption and harassment to HRA staff. Though at the outset there appeared to be a serious purpose behind the FOIA requests, the continued pursuit of information which had been provided demonstrated to the satisfaction of the IC that Mr Parker's purpose had become the harassment and annoyance of the HRA. The IC concluded that the HRA had been entitled to refuse the Request under section 14. Mr Parker then appealed to the FTT.

The Tribunal Decision

11. The FTT considered the appeal on the papers alone as had been agreed by Mr Parker and the IC. On 10 November 2014 it dismissed the appeal, agreeing with the IC that the requested information lawfully fell within the scope of section 14(1) of FOIA.

12. The FTT dismissed the appeal, making findings of fact on the evidence before it about the nature of Mr Parker's Request and the context in which it was made. As a preliminary matter, the tribunal proceeded on the basis that there was an underlying public interest in the manner in which the HRA conducted itself in relation to committee appointments.

13. Having set out the history of dealings between Mr Parker and the HRA in paragraphs 7-17 of its Reasons, the tribunal held in paragraph 23 that the Request made on 27 September 2013 was "*disproportionate and manifestly unjustified*". Mr Parker had moved a long way from the subject matter of his original complaint and was "*clearly engaged in a campaign of extracting at least something from every piece of information provided to him and using it as the basis of a further request*". Indeed the Request materially repeated the previous request made on 23 August 2013.

14. The FTT concluded that the persistent and repetitive nature of the requests was an additional factor supporting the tribunal's finding that any element of fact seeking had been reduced to an oppressive pursuit of grievance. It would have been a disproportionate and inappropriate use of FOIA even if the context had been a loss of paid employment. The Request was clearly vexatious within the meaning of the term provided by the Upper Tribunal in the *Dransfield* case [*Information Commissioner v Devon CC and Dransfield [2012] UKUT 440 (AAC)*].

15. Finally the tribunal found that there was ample evidence of the burden imposed on the HRA as a result of "*the obsessive pursuit by Mr Parker of every point he could extract from both his original complaint and the material provided to him by the HRA in response to previous requests*" [paragraph 25].

16. Thus the tribunal held that the IC had been correct in ruling that the HRA had been entitled to refuse the Request and Mr Parker's appeal was consequently dismissed. I note that the judgment of the Court of Appeal in *Dransfield* was not available to the tribunal at the time it made its decision.

The Appeal to the Upper Tribunal

17. The First-tier Tribunal refused permission to appeal on 22 December 2014. On 16 February 2015 I stayed consideration of the application for permission to appeal pending the decision of the Court of Appeal in the *Dransfield* case. Once that decision was available and after considering written submissions from both parties, I held an oral hearing in Leeds on 18 September 2015 at which Mr Parker appeared in person. On 28 September 2015 I granted permission to appeal on three grounds.

18. First, it was plain that the First-tier Tribunal proceeded on the basis that there was an underlying public interest in the request made by Mr Parker, namely the manner in which the HRA conducted itself in relation to committee appointments. The tribunal's conclusion that this request was vexatious within section 14(1) of FOIA was arguably in error of law in the light of Arden LJ's observation 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 to any section of the public" [paragraph 68, *Dransfield v Information Commissioner [2015] EWCA Civ 454*]. It was arguable that this request may have fallen into the category identified by Arden LJ in paragraph 68 of the vengeful requester whose request was aimed at the disclosure of important information which ought to be made publicly available.

19. Second, it was arguable that the tribunal did not conduct the rounded assessment required by section 14(1) [see paragraphs 68-69 of the Court of Appeal's decision in *Dransfield*]. That assessment must be conducted in the light of Arden LJ's finding that the hurdle of satisfying the test in section 14(1) is high one. Here no reference was made to the underlying public interest when balancing the various factors in play in paragraphs 23 and 24 of the tribunal's reasons.

20. Third, the tribunal's reasoning was based on "*the whole history of communications between Mr Parker and the HRA*" [paragraph 23, Statement of Reasons]. The chronology of the dealings between Mr Parker and the HRA was set out in a one page confidential annex at page 10 of the ICO's Decision Notice [disclosed to Mr Parker]. Though it was recorded therein that Mr Parker had FOI complaints under investigation by the ICO and that there had been, for example, an FOI request to the HRA in 2011, no details whatsoever are provided about the nature of the FOI complaints or indeed the outcome of any complaints either to the HRA or to the IC. Mr Parker then provided some additional details by way of clarification at pages 33-34 of the FTT bundle. Though the tribunal relied on this history in reaching its decision, the evidential basis for its decision may have been insufficiently clear. The history set out in paragraph 11 of the Statement of Reasons was ambiguous and could equally support the view that the actions taken by Mr Parker were either reasonable or in the public interest. In the light of the high hurdle for satisfaction of the test in section 14(1), it was arguable that a rounded assessment required a close scrutiny of the history of dealings between the requester and the public authority based on an appropriately detailed evidential footing. It was arguable that the tribunal should have adjourned to obtain further detail and/or considered whether to hold an oral hearing of the appeal.

FOIA: Section 14(1)

21. The right to request information under section 1 of FOIA is subject to section 14. Section 14(1) provides that "*Section 1(1) does not oblige a public authority to comply with a request for information if the request is vexatious*". There is no statutory definition of what constitutes a vexatious request within FOIA.

(i) The Upper Tribunal in Dransfield

22. In the Upper Tribunal decision of *Dransfield* [see reference in paragraph 14 above], the Upper Tribunal gave some general guidance on the issue of vexatious requests. It held that the purpose of section 14 must be to protect the resources of the public authority from being squandered on disproportionate use of FOIA [paragraph 10]. That formulation was approved by the Court of Appeal subject to the qualification that this was an aim which could only be realised if "*the high standard set by vexatiousness is satisfied*" [see paragraph 72 of the *Dransfield* judgment in the Court of Appeal; reference in paragraph 18 above].

23. The test under section 14 is whether the request is vexatious not whether the requester is vexatious [paragraph 19]. The term "*vexatious*" in section 14 should carry its ordinary, natural meaning within the particular statutory context of FOIA [paragraph 24]. As a starting point, a request which is annoying or irritating to the recipient may be vexatious but that is not a rule. Annoying or irritating requests are not necessarily vexatious given that one of the main purposes of FOIA is to provide citizens with a qualified right of access to official documentation and thereby a means of holding public authorities to account [paragraph 25]. The IC's guidance that the key question is whether the request is likely to cause distress, disruption or irritation without any proper or justified cause was a useful starting point as long as the emphasis was on the issue of justification (or not). An important part of the balancing exercise may involve consideration of whether or not there is an adequate or proper justification for the request [paragraph 26].

24. Four broad issues or themes were identified by Upper Tribunal Judge Wikeley 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). These considerations were not exhaustive and were not intended to create a formulaic check-list [paragraph 28]. Guidance about the motive of the requester, the value or purpose of the request and harassment of or distress to staff is set out in paragraphs 34-39 of the Upper Tribunal's decision.

25. As to burden which is of relevance in this appeal, 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 vexatious. In particular, the number, breadth, pattern and duration of previous requests may be a telling factor [paragraph 29]. Thus, the greater the number of previous FOIA requests that the individual has made to the public authority concerned,

the more likely it may be that a further request may properly be found to be vexatious. However if the public authority has failed to deal with those earlier requests appropriately, that may well militate against holding the most recent request to be vexatious [paragraph 30]. Equally a single well-focussed request for information is, all things being equal, less likely to run the risk of being found to be vexatious. Wide-ranging requests may be better dealt with by the public authority providing guidance and advice on how to narrow the request to a more manageable scope, failing which the costs limit under section 12 might be invoked [paragraph 31].

26. A requester who consistently submits multiple FOIA requests or associated correspondence within days of each other or who relentlessly bombards the public authority with email traffic is more likely to be found to have made a vexatious request [paragraph 32]. The Upper Tribunal considered the extensive course of dealings between Mr Dransfield and Devon County Council which, in the relevant period, comprised some 40 letters and several FOIA requests when coming to the conclusion that his request was vexatious [see paragraphs 67-70].

27. Ultimately the question was whether a request was a manifestly unjustified, inappropriate or improper use of FOIA. Answering that question required a broad, holistic approach which emphasised the attributes of manifest unreasonableness, irresponsibility and, especially where there was a previous course of dealings, the lack of proportionality that typically characterises vexatious requests [paragraphs 43 and 45].

(ii) The Court of Appeal in Dransfield

28. There was no challenge to the guidance given by the Upper Tribunal in the Court of Appeal. In the Court of Appeal, the only issue relevant to this appeal was the relevance of past requests. Arden LJ rejected the submission that past requests were relevant only if they tainted or infected the request which was said to be vexatious. She held that a rounded approach was required which did not leave out of account evidence which was capable of throwing light on whether the request was vexatious. In the *Dransfield* case the FTT had erred by leaving out of account the evidence in relation to prior requests that had led to abuse and unsubstantiated allegations directed at the local authority's staff. That evidence was clearly capable of throwing light on whether the request directed to the same matter was not an inquiry into health and safety but a campaign conducted to gain personal satisfaction out of the burdens it imposed on the authority [paragraph 69, judgment].

29. Arden LJ gave some additional guidance in paragraph 68:
"*In my judgment the 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…"

30. Nothing in the above paragraph is inconsistent with the Upper Tribunal's decision which similarly emphasised (a) the need to ensure a holistic approach was taken and (b) that the value of the request was an important but not the only factor.

The Arguments of the Parties

31. I do no more than summarise these at this stage of my Reasons. The Information Commissioner submitted that I should dismiss this appeal. The decision of the FTT was consistent with *Dransfield* in both the Court of Appeal and the Upper Tribunal. As to ground three, he submitted that the Upper Tribunal's concern about the extent to which the tribunal sufficiently examined the course of dealings between Mr Parker and the HRA was misplaced. The focus of the tribunal's reasoning in paragraphs 23-24 was that the request which led to the application of section 14 was repetitive and indicative of an attempt to seek out further grounds for yet another request.

32. Mr Parker did not disagree with the analysis of the case law about section 14 but rather sought to argue that his own circumstances were different to those in the *Dransfield* case. He argued at the hearing that there was insufficient evidence before the tribunal on which it could properly have based its decision.

Ground 3: The Evidential Basis

33. I address this ground first as it is logical to do so in the circumstances of this appeal.

34. This ground of appeal engaged with the tribunal's scrutiny of the course of dealings between the HRA and Mr Parker, this being one of the factors relevant to an evaluation of the burden placed by his Request on the HRA. Both Upper Tribunal and Court of Appeal case law requires a rounded assessment of whether a request satisfies the high hurdle of vexatiousness in section 14(1). In this case and in others where past dealings are of relevance, I find that an appropriately detailed evidential foundation addressing the course of dealings between the requester and the public authority is a necessary part of that assessment. A compendious and exhaustive chronology exhibiting numerous items of correspondence is not required but there must be some evidence, particularly from the IC, about the past course of dealings between the requester and the public authority which also explains and contextualises them.

35. In this case the chronology of dealings between Mr Parker and the HRA was set out in a one page confidential annex to the IC's Decision Notice. That annex was subsequently and quite properly disclosed to Mr Parker. It stated that the IC had reviewed his complaints management system and identified that Mr Parker had three FOIA complaints under investigation (including the subject of this appeal) and had previously appealed against three decisions made by the IC. No information about the subject matter or the public authorities concerned was given with respect to the FOIA complaints under investigation. Equally no details were given about the appeals made by Mr Parker following decisions of the IC. From this information it is impossible to know whether the HRA was the public authority involved in all these matters and whether the requests were directed towards the non-renewal of Mr Parker's committee appointment by the HRA.

36. The annex also provided a short chronology which stemmed from the HRA [see paragraph 24 of the IC's Decision Notice, First Tier Tribunal bundle page 5]. I reproduce it here in full:
"*FOI request 2008; Employment Tribunal Case 2010; Appeal to First Tier Tribunal 2011; Complaint to MP against National Patient Safety Agency/National Research Ethics Service October 2011; FOI request November 2011; Appeal to Upper Tribunal against First Tier Tribunal; Complaint regarding handling of FOI request; FOI request 26 July 2013; Request to NREAP (National Research Ethics Advisors Panel) 5 August 2013*".

37. I observe that no details were provided about the nature of the FOIA requests or the outcome of any complaints made or any other action taken by Mr Parker. The Decision Notice recorded that "*the HRA contends that it has been in considerable correspondence with the complainant since 2008 in respect of various requests. It provided a list by way of example of the interactions it had had. This included three FOI requests and two appeals to the First tier Tribunal following the*

Commissioner's decisions in those cases" [paragraph 22, FTT bundle page 5]. The FTT bundle also contained a letter from the HRA to Mr Parker dated 8 August 2013 which set out some additional information about the dealings between it and Mr Parker. This included a reference to a subject access request under the Data Protection Act 1998 in March 2011 and to "*extensive correspondence you have also had with the Strategic Health Authority, the National Patient Safety Agency and the Information Commissioner's Office*" [FTT bundle, page 62]. Otherwise the information in the letter dated 8 August 2013 replicated that set out in the IC's annex. Mr Parker provided some additional details by way of clarification at pages 33-34 of the FTT bundle.

38. Had Mr Parker not provided the details he did about his dealings with the HRA and with other public authorities, the material provided by the IC together with the correspondence would not have been sufficient in my view for the FTT to have formed any accurate conclusions about the course of dealings between Mr Parker and the HRA. In fact the information provided by the IC set out in paragraph 35 above might be thought to suggest, impermissibly, that it was the requester who was vexatious.

39. When granting permission to appeal, I also drew attention to the tribunal's summary in paragraph 11 of Mr Parker's FOIA requests to the HRA prior to summer 2013. That paragraph read as follows: "*In addition to the above steps, Mr Parker also lodged FOIA requests with the HRA from time to time, all touching on the broad issue of HRA's processes in respect of committee appointments and complaints in respect of them. These led to at least one instance of a complaint to the Information Commissioner and an appeal from his determination to this Tribunal and from there to the Upper Tribunal.*"

I commented that the wording of this paragraph was ambiguous as its contents could equally support the view that the FOIA requests made by Mr Parker were reasonable or in the public interest. I remain of that view since this paragraph does not mention the number of previous requests; whether the HRA provided information in satisfaction of those requests; and what the outcome was of the complaint to the IC. This lack of clarity stemmed from the inadequacies in the evidence before the tribunal to which I have already referred.

40. The Upper Tribunal in *Dransfield* noted that, when assessing the burden on a public authority, the number of previous FOIA requests as well as their pattern, breadth and duration may be telling. As Upper Tribunal Judge Wikeley observed, the volume alone of previous requests may not be decisive and the manner in which the public authority has dealt with those requests may also be a factor [paragraph 30, Upper Tribunal decision]. I do not read those comments as saying anything other than that proper scrutiny of the number of previous FOIA requests requires more than a superficial count. In this case, the tribunal's summary in paragraph 11 did not contain the required analysis.

41. Despite the deficiencies in the IC's Decision Notice and the tribunal's less than satisfactory analysis of the FOIA requests made prior to summer 2013, I have decided that these matters do not constitute a material error of law affecting the tribunal's conclusions. The FTT had to survey the **entire** course of dealings between Mr Parker and the HRA and its conclusions on that issue were well-founded. Mr Parker himself connected the decision not to reappoint him to his committee role with the "*series of actions he had undertaken*" [see page 17 of the FTT bundle]. All of those actions had failed to provide him with what he considered to be adequate redress. In particular, the tribunal correctly paid detailed attention to what happened in summer 2013. I accept the submission of the IC that the making of four inter-related requests within a two month period in July-September 2013 was archetypal vexatious behaviour and this, alongside the lengthy history of engagement on the basis of a particular grievance, was indicative of a campaign conducted by Mr Parker against the HRA rather than a request with serious purpose or value.

42. In my grant of permission, I posed the question of whether the tribunal should have either adjourned to obtain further written detail or held and oral hearing in order to obtain further detail. In this case, I have however concluded that neither course would have been proportionate in circumstances where the parties had consented to the paper process and where the evidence of the recent dealings between Mr Parker and the HRA in the summer of 2013 was detailed and clear.

43. In conclusion, I find that the tribunal did not materially err in law by giving inadequately founded reasons for its decision and I dismiss this ground of appeal.

Grounds 1 and 2: Consistency with the Court of Appeal

44. These grounds engaged consideration of whether the tribunal had conducted the rounded assessment required by the Court of Appeal particularly given its conclusion that there was an underlying public interest in the Request made by Mr Parker. I considered it arguable that this Request may have fallen into the category identified by Arden LJ in paragraph 68 of the *Dransfield* judgment in the Court of Appeal, namely that of the vengeful requester whose request was nevertheless aimed at the disclosure of important information which ought to be made publicly available.

45. The Court of Appeal stressed that an objective approach must be used when assessing if a request is vexatious. The lack of a reasonable foundation to a request was only the starting point to an analysis which must consider all the relevant circumstances. It is clear from the Court of Appeal's decision that the public interest in the

information which is the subject of the request cannot act as a trump card so as to tip the balance against a finding of vexatiousness.

46. In summary, Mr Parker submitted that the tribunal's view that there was an underlying public interest in the manner in which the HRA conducted itself in relation to committee appointments should have weighed more heavily in its analysis of vexatiousness. The IC submitted that, though the tribunal did not express itself as fully as it might have done, its Reasons clearly indicated why it considered that any public interest in the Request was nevertheless outweighed by the other circumstances of this case.

47. I remind myself that I should exercise judicial restraint when examining the tribunal's reasons for its decision and I should not assume that, just because not every step in the tribunal's reasoning is fully set out, the tribunal misdirected itself [see paragraph 25 of Lord Hope's analysis in *R(Jones) v First-tier Tribunal (Social Entitlement Chamber) [2013] UKSC 19*].

48. Paragraphs 23 and 24 contained the core of the FTT's reasoning on the issue of vexatiousness and I summarised this in paragraphs 13 and 14 of these Reasons. No reference was made to the underlying public interest in those paragraphs though the tribunal had concluded that this factor was engaged in Mr Parker's Request. Whilst it might have been desirable for the tribunal to have made explicit reference to that factor in the two paragraphs which contained the substance of its reasoning on the issue of vexatiousness, I find that its failure to do so did not amount to a material error of law.

49. Read as a whole, the tribunal's Reasons clearly indicated why it considered that any public interest in the Request was nonetheless outweighed in all the circumstances of this case. Mr Parker was making requests of a persistent and repetitive nature as part of an extended period of conduct. This had become an obsessive pursuit and he was engaged in a campaign to extract information and use it as a basis for further requests. I agree with the IC that the tribunal's conclusion in paragraph 24 that "*any original element of fact seeking had been reduced to an oppressive pursuit of grievance*" was a clear finding that, in all the circumstances, the underlying public interest had been superseded in the light of Mr Parker's motive and conduct.

50. The use of section 14 requires a high threshold. The tribunal directed itself explicitly to the Upper Tribunal's decision in *Dransfield* and, though it may not have expressly made mention of that high threshold, its reasoning was consistent with the principle that section 14 should not be invoked without objective and careful justification.

51. For all these reasons I have concluded that neither of these grounds are made out and should be dismissed.

Conclusion

52. For all the reasons set out above, I find that the decision of the tribunal was not in error of law and I dismiss the appeal.

Gwynneth Knowles QC
Judge of the Upper Tribunal
26 September 2016.

[signed on original as dated]