



IN THE MATTER OF AN APPEAL TO THE FIRST-TIER TRIBUNAL

Appeal No: EA/2012/0140

BETWEEN:

ANDI ALI

Appellant

and

THE INFORMATION COMMISSIONER

Respondent

DECISION UNDER RULE 8

1. On 16 November 2011 the Appellant wrote to the Lancashire Constabulary in the following terms:-

“How many Hate Crimes have been reported to the Lancashire Police Hate Crimes Unit (including the hate crimes unit in Burnley) by Civil Servants or former Civil Servants employed at the Tax Credit Office in Preston against Her Majesty’s Revenue and Customs (HMRC) within the last ten years.

How many of these hate crimes included:

- 1) *False sexual allegations*
- 2) *False allegations of expressing support for suicide bombers.*
- 3) *False allegations of bullying*
- 4) *Allegations of expressing ‘extreme political views’ for heckling the British National Party (BNP) at a lawful demonstration outside of work.*
- 5) *Allegations HMRC misused public funds to charge an Asian employee with holding ‘extreme political views’ for heckling the British National Party (BNP) at a lawful demonstration outside of work.*
- 6) *Please tell me what was the outcome of these complaints? For example, did Lancashire Police take the view HMRC was above the law and if so, on what grounds? Or did they decide to prosecute these hate crimes and was the*

matter referred to the Crown Prosecution Service (CPS). if so, what was the outcome?

7) *Please tell me how many of these hate crimes were committed by Asian members of staff employed by HMRC against whites? And white members of staff employed by HMRC against Asians.*

8) *Please tell me how many of these hate crimes was prosecuted under the Protection from Harassment Act (1997)."*

2. The Police responded on 5th December 2011 refusing to provide the information on the basis that the costs of doing so exceeded the relevant financial limit. The response explained the need to manually check individual files and suggested that the request for information be refined in order to make it a more manageable size; it also warned of the difficulties which might arise with respect to the protection of personal information. After a review of their decision the Police confirmed their position on 13 January 2012.
3. The Appellant complained to the Respondent who issued his decision notice on 19 June 2012 (FS50433069).
4. In this the Respondent explored the process that the police had followed and the time it would take to find the information which the Appellant had asked for. He confirmed the information already provided to the Appellant that there were 24,672 hate crimes recorded by this police force during this period. The way data was captured meant that in order to accurately respond to the request for information it would be necessary to physically inspect the individual case files.
5. The Police carried out computer searches of its records looking at specific data fields using the aggrieved person's name of "HMRC", "revenues" and "customs" with a nil result. At his request the Police had carried out three further different automated searches of their records to try to see if automated search could produce the information requested. The search "civil servant" produced 59 results of which one was the appellant's own case. However while it was possible to search against specified fields in the records "*The majority of crimes recorded make no mention of occupation details, so to provide an accurate figure a manual search of the 24,672 hate crime files would be required*". The request was "*How many hate crimes reported by civil servants (or former civil servants)*" if that information was recorded it was recorded in documents in a form which could not be searched by computer. To

give a correct answer to the question “*how many?*” therefore required a different approach. The Police estimate was that manual searching would take at least 55 days, at a cost well in excess of the statutory limit of £450 which would allow for 18 hours searching. The Respondent therefore concluded that the Police were correct to apply S.12 since the estimated cost of complying would exceed the limit.

6. In his appeal he stated:-

“The Commissioner has wrongly allowed the Constabulary to apply section 12 and therefore not give me the information I requested. (Section 12(1) of FOIA states that a public authority is not obliged to comply with a request for information if the authority estimates that the cost of complying with the request would exceed the appropriate limit).

My appeal is based on the grounds that although the Constabulary (thanks to the Commissioner) has searched the crime recording system using the term ‘civil servant’ and informed me that it produced 59 results, 1 of which met the criteria, because it related to an allegation of a hate crime made by myself, they still have not answered the following questions which would not take them over the appropriate cost limit. It would not take them over the cost limit to tell me: [details of original request].....”

7. In essence therefore the Appellant has repeated his request and asserted that the respondent is wrong in agreeing with the Lancashire Constabulary that the costs of complying with the request would take it over the statutory limit beyond which a public body can refuse to provide information because it would be too costly. He has not provided further arguments are evidence why this is so.
8. The Appellant has made a highly specific request for information which can only be searched for manually in a large database. He has put forward no evidence or arguments in law to show that the Respondent has erred in his decision notice which correctly analysed the circumstances and applied the law appropriately.
9. In the absence of any such evidence or any arguments as to law I am satisfied that this appeal has no reasonable prospect of success and accordingly I strike it out under rule 8(3)(c).

Signed:
Judge C Hughes

Dated: 9 October 2012