



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

**Appeal Reference: EA/2017/0123**

**Before**

**Judge**

**David Farrer Q.C.**

**Tribunal Members**

**Paul Taylor**

**and**

**Jean Nelson**

**Between**

**Michael Lawson**

**Appellant**

**and**

**The Information Commissioner ("The ICO")**

**Respondent**

**Mr. Lawson appeared in person**

**The ICO did not appear but made written submissions.**

### Decision and Reasons

The Tribunal finds that the Decision Notice (“the DN”) was in accordance with the law and that the Health and Safety Executive (“the HSE”) was entitled to treat Mr. Lawson’s request for information dated 22<sup>nd</sup>. November, 2016 as manifestly unreasonable, in accordance with Regulation 12(4)(b) of the Environmental Information Regulations, 2004 (“the EIR”). This appeal is therefore dismissed. The HSE is not required to take any steps.

### The Background

1. In 2005, Mr. Lawson complained to the Health and Safety Executive about the repair of a potentially dangerous gas appliance at his home by Total Gas and Plumbing Ltd.(“Total”). It subsequently required disconnection and other safety procedures. Fortunately, no injury or damage resulted from its condition.
2. The HSE - approved registered body for investigating such complaints was Corgi Ltd. A report by Corgi Ltd. to the HSE following its investigation concluded that the complaint was unfounded. That finding has resulted in a twelve - year quest by Mr. Lawson to reverse that finding. It has drawn in, at Mr. Lawson’s behest, MPs, government ministers, members of the Royal Family, the European Commission and Chancellor Merkel of Germany.
3. Mr. Lawson’s principal current concern is that the documents produced by the HSE in response to his requests indicate that Total disconnected the dangerous gas fire, and carried out necessary safety procedures whereas, he says, it was Leyland Fire and Gas Limited(“Leyland”), whose signed Warning Notices and invoice he

produced in evidence. He contends that, if the wrong firm is recorded as completing the safety procedures, then any certification is invalid and he cannot show that the danger from the gas appliance has been removed. The substitution of Leyland for Total in HSE records, he asserts, would cure this problem. This anxiety seems to have driven his long multilateral correspondence over the past twelve years.

4. On 22<sup>nd</sup>. November, 2016 Mr Lawson requested from the HSE –  
*“1 A copy of Form F2508G2 completed by (Total).  
2 Gas Industry Unsafe Procedures Certificate in relation to (Total).  
3 Copy of advisory given to the Minister at the Department of Work and Pensions which leads the Minister to conclude that the Health and Safety Executive pursued all avenues in all the official investigations which has the support of Dr. Judge in a recent communication to Nigel Evans MP.”*
5. The HSE responded on 25<sup>th</sup>. November, 2016. It stated that it had already provided all the information that it held in respect of the gas work carried out at Mr. Lawson’s property in 2005. It relied on EIR 12(4)(b) which provides an exception to the duty to provide environmental information where the request is “manifestly unreasonable”. It maintained that stance following an internal review.
6. Mr. Lawson complained to the ICO.
7. The ICO, as set out in the Decision Notice, found that the request was manifestly unreasonable. She had regard to the passage of time, the volume of correspondence, the requests for information under FOIA, the EIR and the Data Protection Act, 1998 (subject access requests), the repeated assurances that the HSE held nothing more within the scope of the request and the burden on the HSE, which was quite disproportionate to the public interest in the outcome of the request. The DN does not identify the issue referred to at §3 above as the central concern which it became in the course of this appeal

8. As to the public interest, the ICO found that the request, like its predecessors, related to a personal issue between Mr. Lawson and the gas contractors with no wider significance for the general public.
9. Mr. Lawson appealed to the Tribunal. His extensive grounds of appeal, supplemented by very lengthy written submissions and illustrated with copious documents, amount to nearly two hundred pages. Most of them are irrelevant to any case for disclosure of the requested information. His true objective, as it emerges from this mass of narrative and correspondence, is an acknowledgement that Leyland, not Total, completed the necessary safety procedures and the *"reinstatement"* of Leyland in HSE records *"so as to comply with Health and Safety Laws."* As he belatedly recognized in a final *"Summary"* of his case, produced at the hearing, *"this is probably an issue for the proper regulatory authority"*. He stated at the hearing that Leyland should receive the credit due to it.

#### The reasons for our decision

10. The Tribunal recognizes the single - minded determination with which Mr. Lawson has pursued this cause in every possible direction. That is, however, but one indication of the singularly unreasonable character of this request and probably a fair number of its predecessors. His correspondence with politicians and government ministers, here and abroad, strongly indicates an obsessive preoccupation with a minor incident long ago.
11. Items 1 and 2 of the request were for documents which, he asserted, did not exist. The foundation of his case was that Leyland was the only company to carry out the safety procedures and to produce related documents for his signature. He agreed that this was his position when questioned at the hearing. A request for what are known to be, non - existent documents must be one of the most striking examples of an unreasonable request that can readily be imagined. The purpose of the EIR, like FOIA, is to enable the public to obtain information, not to furnish it with

opportunities for cross examination. This consideration alone justifies the description “manifestly unreasonable”.

12. This is not one of those cases where a legitimate request for information is made with the ulterior objective of using that information to persuade a regulatory authority to take action of some kind. Here there was no bona fide request for information in the first place.
13. Additionally, the factors referred to in the DN - the astonishing duration of this campaign in pursuit of such a modest objective, the relentless requests, effectively for the same information following denials that the HSE held it - all point to an unreasonable abuse of EIR 5(1), the fundamental duty to make environmental information available on request.
14. The disproportionate nature of the request, taken in the context of the previous history, can properly be viewed together with its illegitimate purpose, discussed in §§11 and 12, when assessing its character as “manifestly unreasonable”.
15. EIR 12(1)(b), rather oddly, requires that the Tribunal uphold a refusal of even a manifestly unreasonable request only if it judges that the public interest in maintaining the exception outweighs the public interest in disclosure. EIR 12(2) requires it to apply a presumption in favour of disclosure. On its particular facts, this case is akin to those in which EIR 12(4)(a) is invoked, namely where the authority asserts that it did not hold the information, to which claim the same restrictions apply. Notwithstanding EIR 12(1)(b) and 12(2), it is hard to visualize a case where the request, as here, is manifestly unreasonable or where the public authority did not hold the information, in which the public interest in disclosure nevertheless outweighs the public interest in maintaining the exception. As to items 1 and 2, both parties agree, for very different reasons, that there is nothing within the scope of the request to disclose. As to item 3, we find that HSE held nothing responsive to the request.

16. There is, therefore, no public interest in disclosure because there is nothing to disclose. The presumption does not apply, for the same reason. It is arguable that there is, equally, nothing in respect of which there is a public interest in maintaining the exception. If so, applying EIR 12(1)(b), neither public interest would outweigh the other!
17. The answer, as regards manifestly unreasonable requests, must be that, even where the public authority holds nothing within the scope of the request, whether or not knowledge of that fact is an element of the unreasonableness, there is, in general, a powerful public interest in stigmatizing such a request as unreasonable and maintaining the exception as a matter of policy, to deter requests of that character, regardless of the facts of the particular case.
18. This Tribunal is not called upon to investigate further the effect of EIR 12(1)(b) where the exception relied on is EIR 12(4)(a) - that the authority does not hold the information. It will not do so.
19. For these reasons we uphold the DN' s finding that the request was unreasonable and we dismiss this appeal.
20. This is a unanimous decision.

Signed

David Farrer QC,

Judge of the First-tier Tribunal

Date: 14th. March, 2018