

Response to Information Commissioner submission, Upper Tribunal Appeal, GIA/886/2013, received by email 11 June 2013

Ian Belchamber, 11 June 2013

The first 2 points concern a suggested "error in law" (or procedure) that had not even occurred to me: the first-tier tribunal case was closed without a hearing, but Dorset Police had not expressly agreed to this, and according to upper tribunal, a hearing would be normal in such a case.

I agreed to the case to be settled without a hearing as I believed that either way it would be settled professionally, fairly and without bias. I knew that the evidence I had was compelling and extensive and that only one outcome was possible if it would be properly considered. But the decision "on the papers" was so appallingly biased that I wonder even if it would have helped to have had a hearing. Although a hearing might have allowed some of my points in response to come through before the final decision, I do not believe that even then a fair decision would have been guaranteed.

I think that is all I need to write about the question of the hearing, I believe the bigger issues are in the detail of the communications of the case.

It might be helpful before I get to the detail to explain that my complaint with the IPCC on the same matter is also progressing. The person in charge, Detective Superintendent Colin Smith, Head of Professional Standards in Hampshire Police, took one glance at my questions and agreed with me immediately that they should be answered.

I would like to respond to the points made by the IC against my observation that the First-tier Tribunal was biased:

"26. The Commissioner would submit that there is no evidence to suggest that the First-tier Tribunal was biased in its decision and would invite the Upper Tribunal to conclude accordingly and dismiss this ground of appeal."

It would seem that the Commissioner has not read the evidence, best summarised in my summary / submission to the Upper Tribunal, available here: <http://www.dorsetspeed.org.uk/ico/ico.aspx> .

I quote:

The Tribunal therefore had the following when it made its decision:

- *The original statement of the IC and the statement in relation to the tribunal and against both, a detailed and comprehensive explanation from me as to why the decision and each and every point behind it was without any kind of merit*
- *Nothing whatsoever in response to any of this from the IC or DP*
- *All the information, evidence and explanation it could possibly have wanted to backup a long list of serious failings of Dorset Police including a death resulting from one of its operations*
- *Proof of at least one lie in the submission of Dorset Police to the IC.*
- *An upheld complaint from the IPCC including the same issue*

- *Similar unanswered concerns from the MP for Dorset, Annette Brooke*
- *A totally overwhelming motive for Dorset Police to keep the information being requested secret*
- *A simple question which ON ITS OWN, WITHOUT EVEN AN ANSWER was concrete evidence of serious misrepresentation and / or waste of precious public resources of a shocking magnitude*
- *And against me, in comparison to the above, nothing whatsoever but a claim of vexatious because I have been unable to make progress with all the failures above because Dorset Police were failing to communicate about them – by comparison, a drop in the ocean.*

If there was just a trace of impartiality in the judge, only one outcome was possible.

In fact, through the history of this case, there has been no comment / objection whatsoever of any of these or other points demonstrating clearly the failings of Dorset Police, Information Commissioner, and First-tier Tribunal, including in my strong evidence of fraud in Dorset Police, <http://www.dorsetspeed.org.uk/ico/19Jan2013.pdf>

“27. The only question the First-tier Tribunal was required to address in the appeal was whether the request, in all the circumstances of the case was vexatious “

The important words here are “ALL THE CIRCUMSTANCES OF THE CASE”. All the circumstances of the case are described in only one place, the document I referred to above, :

<http://www.dorsetspeed.org.uk/ico/ico.aspx> . **Not once has a single word of this (or indeed anything else I have written on my website, or in emails) been challenged at all, by anyone.** All the circumstances indicate that an independent engineer, free from financial motivation and with considerable industrial safety knowledge and proven ability to understand and solve problems, has found a police force exploiting a money making opportunity, and lying and covering up (i.e. refusing to answer perfectly reasonable questions) in order to continue and to protect those who have acted clearly against public interest and the fundamental principles of what quality policing is really about, endangering the public, and even operating fraudulently. This is a perfect scenario for the FOI process to help, not to hinder, openness and transparency, and the Information Commissioner, and First-tier Tribunal, should have recognised this instantly, and that the vexatious claim of Dorset Police (after everything else had failed) was simply a further desperate attempt to avoid answering questions that would have exposed a scam.

“28. <snip> It was not within the jurisdiction of the Tribunal, contrary to the suggestion by the Appellant in his request for permission to appeal [97] to rule upon decisions made by the Police in relation to the issues which were the background to the request”

You cannot entirely separate the “background” from “all the circumstances”, it is a part.

On point 29: i) and ii): Yes, there is indeed a long history of requests and criticism over a considerable period. That is what can happen when a public organisation behaves badly and does nothing about it, protecting itself by ignoring requests and criticism. This should not be used as a further protection for that bad behaviour to continue!

iii) It seems that the commissioner thinks my only aim is to waste police time and resources. What an absurd comment, given “all the circumstances of the case”, which I won’t repeat again here.

iv) I just want to know why DP need 10 staff on £52k to deliver a simple course to 40 people, and another 3 simple answers. We have wasted years, written thousands of words because of all the effort DP have put into avoiding answering these simple questions. This should have been over in a couple of emails and a few minutes, the question everyone **should** be asking is this: Why are DP so desperate to avoid answering these simple questions, the answers to which **should** indicate careful, competent, effective spend to save life?

On Point 30: I have (once again) demonstrated that the IC responses are without any kind of merit. I believe that the real answers may cause some damage to Dorset Police, and this explains the resistance. But as you will also see in my summary, “Also from the ICO website: ‘While some Freedom of Information Act and Environmental Information Regulations requests for information may embarrass or subject public authorities to levels of scrutiny they wish to avoid, public authorities may not reject requests on these grounds.’ **That would include trying to claim the complainant vexatious, for the same purpose.**”

But just as serious, if not more, as the failings of Dorset Police are the systematic and extensive cover-ups / protection that we have seen in the Information Commissioner, First-tier Tribunal and Judge, the President who dodged the complaint against the Judge, and even the Judicial Ombudsman who dodged the complaint against the first-tier president, and I really do mean completely dodged, all the points were ignored, invalid excuses were found not to deal with the complaints.

Summary

The Commissioner has not made a serious or credible attempt to support the vexatious claim of Dorset Police and has yet again failed to address the bulk of the most serious issues, these being against Dorset Police, not me. The commissioner gives the impression that he is expressing a view without having properly and fairly considered the evidence. The Upper Tribunal must set aside the clearly flawed and biased decisions so far and must make a decision based on the

facts, all the circumstances of the case – the implications may be serious but the outcome must now be right.

I am still happy for the Upper Tribunal to decide on the papers, but as I am not an expert I will expect the UT to propose a hearing if it believes that one would be beneficial to finding the right outcome. If there is a hearing I would prefer it to be local to Poole / Dorset (or perhaps by electronic means).

Ian Belchamber