



Neutral citation number: [2024] UKFTT 00257 (GRC)

Case Reference: EA/2023/0202

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

Heard by CVP on 29 February 2024

Decision given on: 25 March 2024

Before

**TRIBUNAL JUDGE Stephen Cragg KC
TRIBUNAL MEMBER Dr Phebe Mann
TRIBUNAL MEMBER Kate Grimley Evans**

Between

PAUL CARLIER

Appellant

And

**INFORMATION COMMISSIONER
FINANCIAL CONDUCT AUTHORITY**

Respondents

Decision: The appeal is Allowed

Substituted Decision Notice: The Financial Services Authority is directed to handle the Appellant's requests on the basis that they are not vexatious for the purposes of section 14 FOIA (see below).

The Appellant represented himself

The Information Commissioner was not represented but made written submissions

The Financial Conduct Authority was represented by Mr Patrick Tomison

REASONS

MODE OF HEARING

1. The proceedings were held via the Cloud Video Platform. All parties joined remotely. The Tribunal was satisfied that it was fair and just to conduct the hearing in this way.
2. The Tribunal considered an agreed open bundle of evidence comprising 378 pages, a closed bundle, an Appellant's bundle, written submissions from both parties, and witness statements.

BACKGROUND

3. The Appellant made seven requests for information relating to Blackmore Bonds from the Financial Conduct Authority (FCA). The requests were made on 13 October 2022 (at 08:23, 08:55 and 11:19), 14 October 2022 (at 09:07), 16 October 2022 (at 14:25) and 18 October 2022 (at 15:34 and 17:49). Due to the volume and size of the requests Tribunal (as did the Commissioner) has included them as an Annex attached to this decision with the background information removed. The Tribunal has seen the text of the requests in full which runs to 23 pages.
4. The requests followed the FCA's Annual Public Meeting 2022 which took place on 12 October 2022. At that meeting, the FCA's Head of Protection (Mr Mark Steward), and others made a number of comments about the issue of Blackmore Bonds about which the Appellant is interested. Following that meeting, the FCA also published a document called "Annual Public Meeting 2022 – responses to unanswered questions" on its website. Questions 91-100 concerned the Blackmore Bonds. The Appellant characterised his requests in his complaint to the Commissioner as follows:-: [D272]:

Following the Financial Conduct Authority (FCA) APM (Annual Public Meeting) I submitted a series of Freedom of Information (FOIA) requests to The FCA. Each FOIA: 1. quoted a specific representation made by an FCA

executive from transcript of the event. 2. Attached and referred to hard documentary evidence that challenged or contradicted the representation made. and 3. Requested information from the FCA to explain why The FCA executive's representations were so contrary and/or contradictory to the hard evidence I had enclosed and referenced.

5. On 14 November 2022 the FCA refused to comply with the requests citing section 14(1) FOIA (vexatious requests). The Appellant requested an internal review on 15 November 2022. This was provided on 31 January 2023 by the FCA; it upheld its application of section 14(1) FOIA. The Appellant contacted the Commissioner on 9 February 2023 to complain about the way the requests for information had been handled.

DECISION NOTICE

6. In the decision notice of 18 March 2023 the Commissioner agreed that the requests were vexatious and explained the FCA's case as follows:-

Serious purpose and value

18. The FCA acknowledged that disclosure of the information requested would be of reasonable value to the public as it may increase understanding of the FCA's supervisory approach and decision making in relation to Blackmore Bonds.

The burden imposed by the requests

19. The FCA referred to the ICO guidance which notes that "it is common for a potentially vexatious request to be the latest in a series of requests submitted by the individual. The greater the number of requests received, the more likely it is that the latest request is vexatious."

20. The FCA said that during the period 17 January 2022 to 28 November 2022 the complainant has submitted to the FCA 12 Freedom of Information requests. One of these, includes the 7 requests submitted separately within less than a week which the FCA aggregated and responded on 14 November 2022 (which are the 7 requests which are the subject of this Notice).

21. In addition, it said that over half of the requests submitted between January and November 2022 were received in a period of just over 3 months (15 July to 18 October 2022). It said that this is a substantial inflow of requests in such a short timeframe.

22. Furthermore, it said that the complainant had requested internal reviews be undertaken in relation to 9 of the 12 first stage decisions issued (including the 7 which are the subject of this Notice but amalgamated and dealt with as 'one' request).

23. The FCA said that the cost, time and burden of fulfilling the requests represents a disproportionate allocation of the FCA's resources. It said that the purpose of FOIA is to promote public access to important information. It argued therefore that it is important that public authorities are capable of processing requests made under FOIA to enable such access. On examining the volume and frequency of the complainant's requests, it is clear that he has submitted multiple requests before. This includes other correspondence regarding issues he has raised, and that have been addressed previously, outside of FOIA.

24. It summarised that considering the number of FOIA requests together, FCA has concluded that a vast amount of resources is being utilised on processing them. It said that this contributes to an unmanageable workload for the FCA's Information Disclosure Team, which in turn impacts the team's ability to facilitate the disclosure of publicly valuable information. The ICO states that "the collective burden of dealing with the previous requests, combined with the burden imposed by the latest request, may mean a tipping point has been reached, rendering the latest request vexatious." In view of the factors considered above, the FCA said that the 7 requests which are the subject of this Notice meant the "tipping point" had now been reached.

Distress and harassment

25. FCA said that applications made under the FOIA must generally be considered 'motive-blind'. However, as the ICO guidance makes clear, the potential motive behind the request is relevant when considering whether it is vexatious under section 14(1). The FCA therefore also considered the wider context to the FOIA requests and other correspondence. In particular, it referred to a letter dated 21 December 2021 to the complainant from the Head of Technology, Resilience and Cyber which addressed as far as it could the FCA's supervisory approach to Blackmore Bonds. This letter explained that the FCA is bound by the strict confidentiality restrictions that apply under section 348 of the Financial Services and Markets Act 2000. These restrictions limit the scope of any responses, and the amount of information, the FCA can disclose, whether this is under the FOIA, the Complaints Scheme, or as business as usual, regarding any actions the FCA may (or may not) have taken in respect of any information it receives in carrying out its regulatory functions.

26. It said that in terms of the points and assertions made in the 7 requests considered here, these contain issues the complainant had raised as part of a long series of correspondence from the complainant about matters relating to the FCA's approach to Blackmore Bonds. The FCA considers that the complainant may be using FOIA to further matters that have already been considered and addressed in December 2021, and subsequently by the then

Executive Director of Enforcement and Marketing in February 2022, and that the relevant issues raised in the 7 requests are unlikely to add anything of substance to the information already provided to the complainant on this subject.

27. It therefore summarised that the 7 requests considered are not serious requests for information but rather amount to a vehicle for the complainant to make unfounded accusations against the FCA and its staff.

28. The FCA is also of the view that the complainant is further seeking to overburden and harass the FCA by raising issues that have previously been considered outside of FOIA. Looking at the requests in the round, and against the backdrop of the complainant's other FOI requests and other correspondence, it concluded that the purpose of the requests are to overburden the FCA and cause harassment and distress to staff.

Holistic approach

29. The FCA reasoned that whilst each of the requests have some value, the value is limited given the issues raised have already been addressed. Taking the requests as a whole, particularly examining the contents of the Internal Review request, it considers it is clear the complainant is continuing to challenge the FCA for an alleged failure to act or wrongdoing without any clear and logical basis for doing so. Furthermore, many of the requests are predicated upon these baseless allegations and request explanations linked to alleged activity within the unfounded allegations themselves, as opposed to any actual information the FCA holds.

30. The FCA took into account the fact a vast amount of resource is being utilised in processing the requests (when also considered alongside other FOIA requests and other correspondence) and the fact it considers the purpose of the requests is to overburden and harass the FCA, and to distress staff. It therefore weighed the value of the requests against the burden, motive and harassment to the FCA. It concluded that the requests are a disproportionate, manifestly unjustified, inappropriate or improper use of the FOIA because the burden, motive and harassment outweigh the serious purpose and value.

7. The Commissioner's view of the case was expressed as follows:-

31. In this case the Commissioner agrees that there is a serious purpose and value in the requests as disclosure may increase understanding of the FCA's supervisory approach and decision making in relation to Blackmore Bonds.

32. However, the FCA has said that from 17 January 2022-28 November 2022 the complainant has submitted 12 FOIA requests. However it counted the 7 requests which are the subject of this Notice as one request. Therefore in actual fact 18 FOIA requests were submitted during this 10 month period.

This amounts to nearly two requests per month. Given section 10 FOIA allows a public authority 20 working days to respond to a request, this clearly demonstrates the overlapping nature of the complainant's FOIA requests. In particular the practice of submitting new FOIA requests before the FCA has had an opportunity to respond to those already made.

33. Considering the breadth of the FOIA requests, the number made along with other correspondence outside of FOIA, the Commissioner does consider that the tipping point has now been reached due to the collective burden imposed.

34. The FCA has referred to two letters in which it has attempted to address the complainant's concerns regarding Blackstone Bonds in November 2021 and February 2022 and it would appear that the complainant is attempting to pursue these matters now under the guise of FOIA requests which do appear to be accusatory towards FCA staff.

35. Taking a holistic view of this request, the Commissioner is satisfied that whilst there is a serious purpose and value to the subject matter of the requests, due to the collective burden, overlapping nature and tone of the requests, on balance the Commissioner considers that the FCA correctly categorised the requests as vexatious under section 14 FOIA.

THE LAW

8. Section 14(1) FOIA states that:- (1) Section 1(1) [of FOIA] does not oblige a public authority to comply with a request for information if the request is vexatious. Vexatiousness is not defined in section 14 FOIA, but it is immediately noticeable that it is the request that must be vexatious and not the person making the request.
9. Amongst other things, the Commissioner's guidance on section 14 FOIA states that it is designed to protect public authorities by allowing them to refuse any requests which have the potential to cause a disproportionate or unjustified level of disruption, irritation or distress.
10. The approach to vexatiousness is set out in the case of *Information Commissioner vs Devon County Council & Dransfield* [2012] UKUT 440 (AAC). The emphasis on protecting public authorities' resources from unreasonable requests was acknowledged by the Upper Tribunal in *Dransfield* when it defined the purpose of section 14 as follows:-

Section 14...is concerned with the nature of the request and has the effect of disapplying the citizen's right under Section 1(1)...The purpose of Section 14...must be to protect the resources (in the broadest sense of that word) of the public authority from being squandered on disproportionate use of FOIA...' (paragraph10).

11. Also in *Dransfield*, the Upper Tribunal took the view that the ordinary dictionary definition of the word vexatious is only of limited use, because the question as to whether a request is vexatious ultimately depends upon the circumstances surrounding the particular. The Tribunal placed particular emphasis on the issue of whether the request has adequate or proper justification. As the Upper Tribunal observed:-

There is...no magic formula – all the circumstances need to be considered in reaching what is ultimately a value judgement as to whether the request in issue is vexatious in the sense of being a disproportionate, manifestly unjustified, inappropriate or improper use of FOIA.

12. *Dransfield* also considered four broad issues: (1) the burden imposed by the request (on the public authority and its staff), (2) the motive of the requester, (3) the value or serious purpose of the request and (4) harassment or distress of and to staff. It explained that these considerations were not meant to be exhaustive.

13. The UT gave the following guidance as to the ways in which the burden on a local authority could be evidence of vexatiousness, at [29]-[33] of *Dransfield*:-

29. First, the present or future burden on the public authority may be inextricably linked with the previous course of dealings. Thus 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 it is properly to be characterised as vexatious. In particular, the number, breadth, pattern and duration of previous requests may be a telling factor.

30. As to the number, 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. Volume, alone, however, may not be decisive. Furthermore, if the public authority in question has consistently failed to deal appropriately with

earlier requests, that may well militate against such a finding that the new request is vexatious.

31. As to their breadth, a single well-focussed request for information is, all other things being equal, less likely to run the risk of being found to be vexatious. However, this does not mean that a single but very wide-ranging request is necessarily more likely to be found to be vexatious – it may well be more appropriate for the public authority, faced with such a request, to provide advice or guidance on how to narrow the request to a more manageable scope, failing which the costs limit under section 12 might be invoked.

32. As regards the pattern, a requester who consistently submits multiple FOIA requests or associated correspondence within days of each other, or relentlessly bombards the public authority with e-mail traffic, is more likely to be found to have made a vexatious request.

33. Likewise, as to duration, the period of time over which requests are made may be significant in at least two ways. First, a long history of requests e.g. over several years may make what would otherwise be, taken in isolation, an entirely reasonable request, wholly unreasonable in the light of the anticipated present and future burden on the public authority. Second, given the problems of storage, public authorities necessarily have document retention and destruction policies in place, and it may be unreasonable to expect them to e.g. identify whether particular documents are still held which may or may not have been in force at some perhaps now relatively distant date in the past.

14. The Upper Tribunal *Dransfield* decision was also considered in the Court of Appeal (*Dransfield v Information Commissioner and Devon County Council* [2015] EWCA Civ 454) where Arden LJ observed at paragraph 68 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... The decision maker should consider all the relevant circumstances in order to reach a balanced conclusion as to whether a request is vexatious.

15. The more recent Upper Tribunal case of *Cabinet Office v Information Commissioner v Ashton* [2018] UKUT 208 (AAC) made clear that s14(1) FOIA can apply purely on the basis of the burden placed on the public authority, even where there was a public interest in the request being addressed and where there was a ‘reasonable foundation’ for the request.

16. The case also confirmed the approach in *Dransfield* to the effect that the Tribunal should take a holistic approach, taking into account all the relevant factors, in order to reach a balanced conclusion as whether a particular request is vexatious: see especially paragraph 27 of the UT judgment in *Ashton*.

17. Further, in the guidance referred to above, the Commissioner has identified a number of ‘indicators’ which may be useful in identifying vexatious requests, and they include:-

- Abusive or aggressive language
- Burden on the authority – the guidance allows for public authorities to claim redaction as part of the burden
- Personal grudges
- Unreasonable persistence
- Unfounded accusations
- Intransigence
- Frequent or overlapping requests
- Deliberate intention to cause annoyance

18. The Commissioner also provides the following guidance where the use of s14 FOIA is being considered by a public authority, and which it seems to us is potentially applicable in this case:-

...sometimes part of the problem is that the requester’s correspondence is hard to follow and you are therefore unsure what, if any, information they are requesting. Then, you might want to consider whether you could more appropriately resolve the problem by providing the requester with guidance on how to reframe their request.

This approach may be particularly helpful for lengthy correspondence that contains a confusing mixture of questions, complaints and other content, or is otherwise incoherent or illegible.

If the problem is that you are genuinely unable to determine what information the requester is seeking because of how the request is phrased, you should consider the provisions of section 1(3). Under that section, where you reasonably require further information in order identify or locate the requested information, you are required to inform the requester of the

problem so that they have the opportunity to provide further details. In these circumstances, it makes sense to also consider what advice and assistance you could provide to overcome the problem.

THE APPEAL

19. The Appellant filed an appeal dated 6 April 2023 which argued that his request was not vexatious and had a serious purpose. He complained that the Commissioner had not referred to any of evidence he had presented to the Commissioner to show that his requests were not vexatious, and had accepted everything the FCA had said. He pointed out that the 'FCA APM is the annual forum where the FCA presents itself and its work to the public and media and holds itself open to questions from said public and media' and that each of his requests related to representations made at that meeting by the FCA and so were legitimate requests. The Appellant set out some of the reasons why he said he was dissatisfied with the way that the FCA had dealt with the issue of Blackmore Bonds, which the Appellant believed had been wrongly marketed to so-called 'unsophisticated investors. This had been the subject of a Panorama programme in August 2022 (two months before the FCA APM), entitled 'The Billion-Pound Savings Scandal' and which advertised that:-

Offshore money, huge fees, suspicious payments and a phantom head of the KGB- just some of what a group of ordinary British savers discovered where the 346 million find they had invested in collapsed. Each year, a billion pounds is lost in failed investment schemes, Panorama tells the story of one of them and follows investors as they try to unravel the truth about the Blackmore Bond, a Manchester-based scheme and challenge the regulators they believe failed them.¹

20. The Appellant said that:-

More than 2,000 vulnerable pensioners lost a combined £46m. At all times since March 2017 I have done nothing but seek to report the offences in the first instance, believing I was helping the FCA and the victims by

¹ <https://www.bbc.co.uk/programmes/m001b7jh>

preventing the scam, fraud and Ponzi scheme, and subsequent to that have only ever sought to help the victims establish truth and fact and secure the justice and remedy owed.

21. The Commissioner responded to the appeal, and accepted that ‘the Appellant’s submissions...regrettably, ...were not considered’ before the decision notice was issued. The Commissioner has said that ‘a detailed review of the content of the Appellant’s submissions, along with the attachments (this does not include the videos provided by the Appellant)’ had been undertaken but ‘the Commissioner does not consider the submissions disturb the findings in his Decision Notice, and stands by his Decision Notice’. No further reasoning was provided, but the Commissioner noted that in ‘reaching its own decision on the correctness of the Commissioner’s decision, the Tribunal will be considering the matter afresh. This means that when deciding the appeal, the Tribunal will be able to take into account all submissions, including the submissions that were not considered by the Commissioner before the Decision Notice was issued’. The Commissioner said that he ‘does not propose to make any further representations or submit further documentation’ and indeed, other than preparing the bundle for the case, the Commissioner has played no further part in the appeal.

22. The FCA supported the decision notice and made submissions on the same issues as appear in that notice, namely:-

- (a) The value of the requests;
- (b) The burden on the FCA;
- (c) The motive behind the requests;
- (d) The harassment of, and distress to, staff; and
- (e) The overall balanced judgement as to whether the requests were vexatious.

THE HEARING

23. The FCA relied upon a statement from Mr David Cross to support its case. Mr Cross is the acting Head of External Communications at the FCA. He is Head of

Department responsible for the Information Disclosure Team (IDT), which among other things, answers Freedom of Information Act requests on the FCA's behalf. Mr Cross did not attend the hearing and there was no opportunity for the Appellant or the Tribunal to question him, and we take that into account when considering the contents of his statement and the weight to give to it. The Tribunal notes its wide power to admit and consider evidence pursuant to rule 15(2) of the First-tier Tribunal (General Regulatory Chamber) Rules 'whether or not the evidence would be admissible in a civil trial'.

24. The statement set out details of correspondence with and FOIA requests from the Appellant:-

9. ...Mr Carlier has made a significant number of requests under the FOIA over an extended period. Since 2015, Mr Carlier has made 24 separate requests under FOIA, of which 12 were made between 16 January 2022 and 28 November 2022. The 7 Requests under appeal in this case are reflected as one request in those figures. Although the FCA has, on occasion, provided a single response in relation to multiple of Mr Carlier's requests, the FCA has still considered each request individually...Of these 24 requests, Mr Carlier has requested internal reviews of 17 requests...and of those he has appealed 2 internal review decisions to the Information Commissioner.

10. ...half of the FOIA requests submitted between January and November 2022 were received in a period of just over 3 months (15 July to 18 October 2022).

11. Mr Carlier has made repeated requests in relation to similar themes...5 requests were received relating to Lloyds Bank, 7 relating to Blackmore, 3 relating to Interest Rate Hedging Products. This is part of a pattern of repetitive communications with the FCA about the same topics, which I address further below.

12. Responding to Mr Carlier's correspondence has required a substantial amount of the IDT's resources based on the volume and frequency of the correspondence alone. This contributes to a less manageable workload for the FCA's IDT, which in turn impacts the team's ability to facilitate the disclosure of publicly valuable information.

25. Mr Cross identifies further factors which he says have also contributed to 'the significant burden on IDT's resources and have made the processing of Mr Carlier's requests more difficult, distressing and time consuming'. These include

that the requests are often composed of multiple sub-requests and often include attachments and refer to irrelevant matters, which make it difficult to identify the FOIA matters raised. The Appellant's FOIA correspondence also includes serious allegations of misinformation levelled at FCA officials, as well as what is described as 'an insistent and inappropriate tone' which are not appropriate to be received by FCA staff members and which can be burdensome and distressing. We were taken to some examples of these allegations during the hearing. Some requests have been so frequent that they were sent before the time for the FCA to respond to previous requests had elapsed. Mr Cross continues:-

14. The 7 Requests under appeal relate to Blackmore Bond plc ("Blackmore Bond"), about which topic Mr Carlier has previously requested information under FOIA...I am aware that Mr Carlier has also corresponded on numerous occasions with other departments of the FCA in relation to this topic, via different avenues, including Press Office, Enforcement and Market Oversight and CEO's Office...

15. I refer to two particular instances on which the FCA has engaged with Mr Carlier in relation to his concerns and queries on Blackmore Bond: a letter from Robin Jones dated 21 December 2021 and Mark Steward dated February 2022. These are comprehensive responses, sent in addition to the FCA's responses to requests under the FOIA and other correspondence. They explain the FCA's position and the limitations on the FCA making certain information public, including information requested by Mr Carlier. The FCA operates under a strict confidentiality regime and due to the provisions of section 348 of the Financial Services Act 2000 is often prohibited from disclosing information under FOIA. In this instance the FCA, through the letters of Mark Steward and Robin Jones has explained that it has already shared as much information as it is permitted to under the legislation in place. However, despite the fact that the FCA is prohibited from disclosing any information the appellant has still submitted a request under the Act. Nonetheless, Mr Carlier has not ceased to make FOIA requests and send other correspondence to the FCA relating to this topic.

16. The above correspondence is in the context of a wider history of communications from Mr Carlier, which dates back to 2015. Excluding matters raised under FOIA and Data Subject Access Requests, since Mr Carlier has contacted various individuals/teams across the FCA substantively on at least 269 occasions (this does not include all correspondence to Whistleblowing): the Complaints Team at least 70 times, Executive Casework Unit ("ECU") at least 159 times and Supervision Hub at least 40 times. Mr Carlier has contacted the FCA's Chair, CEO, Executive Director of Enforcement & Market Oversight, as well as other senior staff across the organisation, on 108 occasions during the period 24 March 2021 and 14 February 2023 (and around 86 times to 10 August

2022). The various communications have often been addressed to multiple departments and have concerned a range of topics such as Lloyds Bank/Blackhorse, Blackmore Bonds, Whistleblowing, Complaints and allegations of misinformation by various FCA officials. I am aware of this because of the communications records I have seen.

26. We gave permission for the Appellant to rely on the witness statement of Mr Andrew Agathangelou, who is the founder of the Transparency Task Force and Chair of the Secretariat Committee to the All-Party Parliamentary Group for Fairer Financial Services. Mr Agathangelou did attend the hearing but the FCA had no questions for him. His statement says that:-

I have known Mr Carlier for five years and have interacted with him extensively in that time, typically several times a week, and often on complex, technical matters where his knowledge and experience is supremely helpful.

Mr Carlier provides highly valuable subject-matter expertise, on a purely pro bono basis, that is of great use to me in my role as a campaigner for reform of the financial sector; both in my capacity as founder of Transparency Task Force Ltd (a Certified Social Enterprise with a formal mission to ‘promote ongoing reform of the financial sector, such that it serves society better’) and also in my capacity as Chair of the Secretariat Committee to the All-Party Parliamentary Group for Fairer Financial Services (which has a Purpose Statement which is “To identify aspects of personal banking and financial services where the service providers or regulators have not delivered, or are not delivering, excellence and appropriate consumer protection; to facilitate and encourage all stakeholders to work together to resolve past and present shortcomings, and to bring about positive changes”).

Mr Carlier is an active participant in multiple campaign areas that I run, each one dedicated to issues in a particular area of the market or known problem area. This is very unusual, in that most of the people I interact with and who provide assistance to me on a pro bono basis do so in perhaps one, two or perhaps as many as three areas. But because of Mr Carlier’s generosity as a volunteer to give freely of his knowledge and a truly remarkably wide and deep knowledge base, he provides the equivalent input to say three or four more typical volunteers.

27. The Appellant also submitted two witness statements which elaborated on his grounds of appeal and took issue with the position of the FCA and the Commissioner.

28. The Appellant represented himself at the hearing. Neither the Commissioner nor the Council were represented. We explained to the Appellant that the Tribunal had read the background documents in the case, and understood the history of the matter.
29. The FCA addressed the issues set out in the decision notice in a skeleton argument and orally. The Appellant responded using the same headings in a skeleton argument, and also orally and so we can usefully summarise the arguments as follows.

The value of the requests

30. The FCA accepts there is some limited value in the requests ‘but it is apparent that the requests amount to argumentation and expressions of disagreements with statements made on behalf of the FCA. Rather than being serious requests for information, they are requests for explanations’.
31. The Commissioner found that there was ‘reasonable value to the public as it may increase understanding of the FCA’s supervisory approach and decision making in relation to Blackmore Bonds’. The Appellant pointed out that the requests ‘were all specific to representations the FCA made at its APM in October 2022 regarding Blackmore Bond’ and emphasised the ongoing importance of the Blackmore Bond issue and the regulatory role of the FCA. He submits that the FCA had accepted that his questions amounted to ‘requests’ under FOIA.

The burden on the FCA

32. This was the focus of much of the FCA’s case and it is said there are several strands to this issue and that ‘the requests, when seen in the context and history of Mr Carlier’s course of dealings with the FCA, impose a wholly disproportionate burden on the FCA’. Reference is made to the ‘convoluted’ nature of the requests and their length, the amount of time necessary to understand the requests, and the fact that a number of requests were made over a short period of time. The figures cited by Mr Cross are relied upon for setting out the history of requests, and also

the wider correspondence between the Appellant and the FCA: ‘The nature of his correspondence – copied to multiple business areas and raising multiple topics – requires time to be spent by different departments liaising with each other internally to allocate and coordinate responsibility’. This is despite the attempts to fully respond to the Appellant and to explain the limits placed on the information that can be shared by section 348 of the Financial Services and Markets Act 2000. The weight of the correspondence has led to divers being placed on his emails.

33. The Appellant argues that the ‘number of FOIA requests were proportionate to the number of false and/or misleading representations made by the FCA at the APM...’, and that he has provided information to make them ‘self-explanatory’. He lists the various issues on which he has corresponded with the FCA and points out they do not all concern Blackmore Bond and says that the correspondence is the ‘result of work and investigation carried out by me on behalf of millions of victims of the above, and that I did on an entirely pro-bono basis because I am one of the few people that has the knowledge and industry experience to identify such wrongdoing and investigate it’.

The motive behind the requests

34. The FCA says that it is apparent that the Appellant ‘has a sincere belief in the allegations which he is making and the cause which he is pursuing. However, on a careful reading of the requests...it is apparent that his motivation is not really to seek recorded information; he is using FOIA as a vehicle for argumentation’.
35. The Appellant makes it clear that his motive has been to close down the Blackmore Bond scheme, prevent further harm and to assist victims. He denies that his requests are a vehicle for ‘argumentation’.

Harassment of, and distress to, staff

36. The FCA points to times when the Appellant’s correspondence and requests (including these requests) use intemperate language and makes wide-ranging and

unsubstantiated allegations of lying and indeed criminal behaviour. Thus these requests refer to Mr Steward having made “knowingly misleading representations to the public” and the FCA’s “false and misleading representations”. The FCA say that ‘it is self-evident that such accusations, coupled with the obsessive and repetitive nature of these requests (plus the overall course of conduct) would cause harassment and distress to staff’.

37. The Appellant says it has not been his intention to cause distress but he also says that ‘it is extraordinary that I, or any requester, via an FOIA request that exposes a representation by a public body that is false and/or misleading, can be accused of harassing and causing distress to the employees of that Public Body for having exposed the false representation’.

Overall value judgement

38. The FCA says that ‘drawing those strands together, it is apparent that the requests were vexatious. Whilst it is acknowledged that there is a high hurdle in establishing that a request is vexatious, this hurdle is met. Given the limited (if any) public value in Mr Carlier’s requests, which ultimately amount to argumentation, and the extremely burdensome history of correspondence with Mr Carlier both under FOIA and more widely, the FCA was perfectly entitled to refuse the request under section 14(1) FOIA.

39. The Appellant counters that the importance of the issues and the losses to members of the public justify the requests, and points out if the FCA makes representations which are wrong this is bound to lead to FOIA requests.

DISCUSSION

40. The Tribunal has found this a finely balanced case. We take on board all that the FCA has said about the burden that the Appellant’s frequent engagement with it over a period of years has placed upon the resources of the FCA. The requests which are the subject of this appeal are unnecessarily lengthy and convoluted as the FCA says. We are concerned about some of his tone and language when his

avowed aim is simply seeking information. There is evidence of persistence in the face of explanations provided by the FCA and limits on what information the FCA can provide.

41. However, there are a number of important factors raised by the Appellant which we have also taken into account.
42. The Appellant points out that he has been involved in a number of matters in relation to the FCA in his capacity of providing *pro bono* assistance to those he has identified as victims (and as supported in the unchallenged witness statement of Mr Agathangelou) and that much of the correspondence to the FCA is in relation to subjects with which he is engaged. The Appellant argues that it is unreasonable for the FCA to count all of this correspondence within the totals presented as evidence that his contact with them is excessive.
43. Although it is the case that the Appellant has pursued the issue of the Blackmore Bond for some years, it seems to us that at the time of the current requests, the issue was still a live and important one, and recently the subject of a BBC documentary. We note that the requests relate specifically to what was said by Mr Steward and others at the annual public meeting where the issue of Blackmore Bond was discussed (and included in answers to FAQs afterwards).
44. Thus, the group of requests was made after the comments made by Mr Steward at the public meeting, and relate to points made by Mr Steward which the Appellant which the Appellant believed were wrongly made. The requests were made over a short period of time but all related to points made in the meeting, and their construction clearly shows that a degree of research went into each request before it was made.
45. We accept that the way in which the Appellant presented his requests did not make the FCA's task easy. The Appellant appears to have taken the approach that he had to set out a full case as to why Mr Steward's comments were wrong before asking for an explanation as to how the FCA had reached its conclusions or for the information upon which the conclusions were reached. We note that the Commissioner, when producing the decision notice, stripped out the preamble and

research presented by the Appellant, and this makes the actual requests somewhat more accessible.

46. It is also true that it may be the case that, when properly analysed, some of the requests made are not for recorded information held by the FCA at all, but rather freestanding requests for explanations of the FCA's position. However, in our view that stage in the consideration of the requests has not been met: at present the FCA is simply declining to deal with the requests on the basis that they are vexatious. It is our view that this is the kind of case which falls within the Commissioner's guidance (as set out above) on s14 FOIA where there is 'lengthy correspondence that contains a confusing mixture of questions, complaints and other content' and where 'the requester's correspondence is hard to follow and you are therefore unsure what, if any, information they are requesting'. As the Commissioner says a public authority 'might want to consider whether you could more appropriately resolve the problem by providing the requester with guidance on how to reframe their request' or 'require further information in order identify or locate the requested information'. It was accepted by the FCA in the hearing that there had not been this kind of engagement with the Appellant in relation to these requests.

47. As said, we are concerned that the Appellant has used language in his requests which are accusatory of the FCA and its officials, including making allegations that the FCA (and Mr Steward in particular) have been deliberate in making misleading comments and representations. We note that there is no place for this kind of language in FOIA requests: even if it is thought that misleading statements have been made, it is enough to make the request for relevant information sought without these additional comments.

48. However, on balance we are not satisfied that these requests can be said to be vexatious. We accept that there is a real purpose to the requests in an ongoing dispute about the FCA's response to the Blackmore Bond issue. If the FCA holds a public meeting where the issues are raised and discussed then it seems to us legitimate for requests to be made for underlying information to support the FCA's position.

49. We accept that dealing with the requests will be burdensome, in the context of a history of correspondence and requests on a number of issues from the Appellant. We also accept that not all of the Appellant's requests translate easily into FOIA requests for information but in many it is clear that a request for information can be readily perceived.
50. For example, the part of the request which deals with Mr Steward's comments that a 'legitimate insurer' was involved in the Blackmore Bond issue can be interpreted as requesting information supporting this claim. In any event, we note the Commissioner's guidance which encourages public authorities to seek to clarify what information is sought and to provide advice to requesters. The FCA complains about the burden placed on it to decipher and interpret the Appellant's requests, but there is no evidence that the FCA sought to clarify what information was sought.
51. The FCA argued that s348 of the Financial Services and Markets Act 2000 limited the information it could provide in any event (and that had been pointed out previously to the Appellant), and that even if it dealt with the requests then much of the information sought would be exempt from disclosure pursuant to s44 and s31 FOIA. But the FCA did not reach the stage of deciding if the information was exempt from disclosure, but instead has sought to argue that, through section 14 FOIA, it does not have to deal with the Appellant's requests at all.
52. We take a holistic view as required by the case law in deciding whether the requests are vexatious. We bear in mind all the valid issues raised by the FCA, and the undoubted burden placed on it. But taking into account the expertise and usefulness of the Appellant's pro bono work (as attested to by Mr Agathangelou), the live nature of the Blackmore Bond issue, and the fact that requests relate to statements made by the FCA in a public meeting, by a narrow margin, we do not find that the requests were vexatious. However, we reach that conclusion with some hesitation, and it certainly does not mean that requests from the Appellant in the future might not be found to be vexatious, if the surrounding circumstances at the time merited that conclusion.

53. We accept that the Appellant has a genuine desire to improve the FCA's role, and has been frustrated that in his view (rightly or wrongly) it has not responded in a way he hoped. That said, we would expect the Appellant in any further FOIA requests or correspondence to refrain from making allegations which challenge the credibility of individuals working for the FCA. Their jobs are hard enough without being put under that kind of unnecessary pressure. The purpose of the FOIA is not to be used as a tool to pursue public office holders, and to do so could be interpreted to indicate an inappropriate motive in its use. The purpose of FOIA is simply to make information available to members of the public.
54. As a result of the conclusion we have reached the FCA will now have to consider these requests. Our conclusion does not necessarily mean that the information sought will be disclosed. It may be that, even after clarifying with the Appellant, the FCA finds that some of the requests do not amount to FOIA requests at all. The FCA might decide that it does not hold the information sought, and we remind ourselves that a public authority is not expected to create information to respond to a request (for example explaining how a position has been reached where there is no documentary evidence which underpins that process). It may also be, of course, that exemptions under the FOIA apply to some or all of the information sought.

CONCLUSION

55. On that basis, we allow this appeal, and the FCA should consider the requests and provide the information, seek clarification of the requests where appropriate or claim any appropriate exemptions.
56. The following substituted decision notice is made. The Tribunal requires the FCA to take the following steps to ensure compliance with the legislation:-

- **Reconsider the Appellant's requests afresh on the basis that these requests are not vexatious for the purposes of section 14 FOIA.**

- **The FCA must take these steps within 35 calendar days of the date of this decision, and inform the Appellant of the outcome from taking those steps within the same time period.**

57. Failure to comply may result in the Tribunal making written certification of this fact to the Upper Tribunal, in accordance with rule 7A of the First-tier Tribunal (General Regulatory Chamber) Rules² and may be dealt with as a contempt of court.

Signed Recorder Stephen Cragg KC sitting as a Tribunal Judge

Date: March 2024

² https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1006547/consolidated-fft-grc-rules-21072021.pdf

Annex

FOI9688

Information request dated 13 October 2022 (at 08:23):

“To the FCA data team,

(TSC and Transparency Taskforce copied)

Further to representations made by [name redacted] yesterday at the FCA APM in respect to ‘Blackmore Bond’ please find below the first of several FOI requests in respect to those Blackmore Bond representations.

BLACKMORE BOND FOI REQUEST 1 - [name redacted] sought to claim in the opening passage of his statement that Blackmore Bond was ‘Unsecured Lending’ and referred to the Blackmore Bond as a ‘Proposition’ and NOT an ‘Investment’.

[background removed]

Can the FCA please explain why [name redacted] yesterday sought to ‘re-classify’ Blackmore Bond as ‘Unsecured Lending’ as opposed to an ‘Investment’, for the benefit of the public and media, and with an apparent intent to mislead the public, media and the victims, and create desired & ‘pre-prepared’ soundbites in respect to Blackmore Bond yesterday?

Can the FCA please explain why [name redacted] and with apparent approval of CEO Nikhil Rathi, who was present at the meeting and made no attempt to correct [name redacted], would seek to make what is clearly a misleading representation to the public by way of this attempt to ‘reclassify’ the Blackmore Bond as anything other than the ‘investment’ that it was sold to consumers as?

Regards

[name redacted]”

Information request dated 13 October 2022 (at 08:55):

“To the FCA data team,

(TSC and Transparency Taskforce copied)

Further to representations made by [name redacted] yesterday at the FCA APM in respect to ‘Blackmore Bond’ please find below the first of several FOI requests in respect to those Blackmore Bond representations.

BLACKMORE BOND FOI REQUEST 2 - I refer you to my earlier BLACKMORE BOND FOI

REQUEST 1 and the following within it:

[background removed]

FOI ELEMENT A - Can the FCA explain why [name redacted] is now referring to and relying upon representations as to this Capital Guarantee Scheme 'Investment Insurance Product' that was used to dupe consumers into believing that this was a 'Risk Free Investment' and appeared to make this a 'Risk Free Investment', having earlier told the Sunday Times that there can be no such thing as a 'Risk Free Investment'?

FOI ELEMENT B - Can the FCA explain why such 'Investment Insurance Products' that seek to 'Guarantee Investments' and make them 'risk free' have not been prohibited by The FCA given that a) there can be no such things as Investment Insurance, b) They are used to create the illusion of 'risk free' investments and c) I now have evidence of numerous such 'Investment Insurance' products all having refused to payout for one reason or another, and that it is quite clearly an issue the FCA is aware of?

FOI ELEMENT C - Dame Gloster referred to the use of 'halos' to dupe investors in her findings in respect to LC&F. In that instance LC&F were using an FCA authorisation for other purposes to create the halo. In this, and numerous other cases it seems from the evidence I now have, the fraudsters [and yes, they were fraudsters despite the disturbing claims to the contrary] used these 'Investment Insurance Products' to create the halo that duped consumers. Can you explain why the FCA has repeatedly it seems failed to identify or recognise the use of these 'Investment Insurance Products' for the Halo they were?

I look forward to your response.

[name redacted]"

Information request dated 13 October 2022 (at 11:19):

"To the FCA data team,

(TSC and Transparency Taskforce copied)

Further to representations made by [name redacted] yesterday at the FCA APM in respect to 'Blackmore Bond' please find below the first of several FOI requests in respect to those Blackmore Bond representations.

BLACKMORE BOND FOI REQUEST 3 - I refer you to my earlier BLACKMORE BOND FOI

[background removed]

FOI ELEMENT A - [name redacted] representations yesterday to the public and media, and intended for the Blackmore Bond victims also, seeks to establish [company name redacted] as a 'Legitimate Insurer'.

Yet the evidence I have, some of which is attached and included within the body of this email, demonstrates that [name redacted] and the FCA must know this to be untrue, or to certainly stretch credibility beyond that which is reasonable. Please explain why [name redacted] and the FCA would make such knowingly misleading representations to the public, media and Blackmore Bond victims yesterday?

FOI ELEMENT B - [name redacted] and The FCA, like me, have seen the various Investment Insurance product documents. They include two key exemptions:

[background removed]

This essentially covers the majority of reasons why such 'Investments' fail, and so was highly unlikely to payout under any circumstances. Indeed, Blackmore Bond falls foul of not one but both of those.

Since the broadcast of the Panorama programme, I have been inundated with contacts from other investment scam victims where 'Investment Insurance' such as this was used to dupe investors, none of which paid out.

Can the FCA explain why it is going to extraordinary lengths to give this insurance company and its product credibility and legitimacy, when it knows this is not the case?

FOI ELEMENT C - I have included representations made by [name redacted] yesterday, but what he failed to say is as disturbing as what he did say.

[name redacted] failed to mention that these Investment Insurance products were sold via UK based and FCA Regulated Insurance Brokers. Why? Was this with intent to further the false narratives that the FCA has been peddling since the collapse of Blackmore Bond, to the effect that everything pursuant to is was beyond The FCA perimeter, authority and powers?

[background removed]

Can the FCA explain why they have failed to act against these FCA regulated insurance brokers and sought compensation for victims from the indemnity or public liability insurance of these FCA regulated brokers, and why it has sought to conceal all mention of their involvement and apparently failed to take any enforcement action?

FOI ELEMENT D - I refer you again to the Sunday Times interview with [name redacted] by [name redacted], whereby [name redacted] was emphatic in his position that there 'Is no such thing as a risk free investment' and ask you to explain why yesterday the same [name redacted] on behalf of the FCA and with apparent full approval of Mr Rathi, who was present and made no effort to correct or challenge [name redacted], sought to give credibility to this investment company and their investment product insurance, essentially arguing that Blackmore Bond was a 'Risk Free Investment'?

I look forward to your response and refer you to statements made yesterday as to responses to FOIA's no longer being subject to delays.

Regards

[name redacted]

Information request dated 14 October 2022 (at 09:07):

"To the FCA data team,

(TSC and Transparency Taskforce copied)

Further to representations made by [name redacted] yesterday at the FCA APM in respect to 'Blackmore Bond' please find below the first of several FOI requests in respect to those Blackmore Bond representations.

BLACKMORE BOND FOI REQUEST 4 - During The FCA APM [name redacted] made the following statement:

[background removed]

FOI ELEMENT A) - Can the FCA provide information as to why [name redacted] sought to use the low number of complaints to imply a lack of significance, a lack of impact on victims and a dis-interest by victims, when the FCA has essentially told the world, the media and each of their MP's that it was nothing to do with the FCA so don't bother complaint to us?

[background removed]

FOI ELEMENT B) - Can the FCA provide information as to why [name redacted] sought to use the low number of complaints to imply a lack of significance, a lack of impact on victims and a dis-interest by victims, when the FCA has made it clear that any investigation to any Blackmore Bond complaint will be deferred indefinitely and there is therefore no point in you complaining?

[background removed]

FOI ELEMENT C) - Notwithstanding that the FCA has significantly backtracked from the false and misleading representations as to everything being beyond their perimeter, authority and powers that it has been making since the collapse of Blackmore Bond, can the FCA explain why it continued with those false and misleading representations for so long whilst at the same time seeking in complaint responses to investors to defer the opening of any investigation on the basis below?:

"Having considered your complaint, I regret to inform you that we will need to defer our investigation into your concerns for a period of time. This is because your complaint is connected with, or arises from, ongoing regulatory action by the FCA and there is a risk that, if the complaint is investigated at the same time, it could adversely impact that action. I appreciate that this will be very disappointing for you."

Why was The FCA saying on the one hand that everything about Blackmore Bond was beyond its perimeter, authority and powers, and therefore no possibility of any FCA regulatory action now or previously, whilst at the same time telling victims that they were deferring the opening of any investigation of their complaint due to 'ongoing regulatory action by the FCA'?

Regards

[name redacted]

Information request dated 16 October 2022 (at 14:25):

“To the FCA data team,

(TSC and Transparency Taskforce copied)

Further to representations made by [name redacted] yesterday at the FCA APM in respect to ‘Blackmore Bond’ please find below the next of several FOI requests in respect to those Blackmore Bond representations.

[background removed]

BLACKMORE BOND FOI REQUEST 5 - During The FCA APM [name redacted]

made the following statement:

[background removed]

Did the FCA authorised firms that were two of them were involved in those promotions? Did they undertake proper due diligence? Did they check out what was being offered? Did they make sure that what was being provided to consumers--The information that's been provided to consumers in those promotions did they make sure that information was was accurate, was clear, not not misleading and didn't contain any material omissions and also properly advised consumers about all the risks that we're involved in those promotions. now at this stage Our work in relation to this is is virtually complete, but at this stage, it does look as though those financial promotions were largely accurate in what they set out and contained Very relevant risk warnings for consumers.”

[background removed]

FOIA ELEMENT A) ‘Guaranteed Investment’

[background removed]

Q - Can the FCA provide information to explain why it confirmed at the FCA APM this week to the public, media and victims [and MP’s and Committee’s that it knew to have a keen interest] that it believed all Blackmore Bond promotional material was compliant with FSMA, applicable other laws and FCA Codes, including COBS and PRIN, and that the material carried appropriate risk warnings, when this document quite clearly does nothing of the sort, but does quite clearly represent to investors that there was no risk, because any risk that might have existed was entirely mitigated or offset by the Capital Porteciton/Capital Guarantee?

FOIA ELEMENT 2 - False or Misleading representations? –

[background removed]

Q: Are any of the claims made by this Blackmore Bond Investment Brochure as to completed Blackmore Bond [Not Blackmore Group or other vehicle] projects and their values and returns correct?

Q: Are any of the claims made by this Blackmore Bond Investment Brochure as to the 10 projects currently under construction by Blackmore Bond [Not Blackmore Group or other vehicle] projects and their values and returns correct?

[background removed]

Q: I and others have evidence that demonstrates a rather different process to the one described here. What steps did the FCA take to validate that this process was an accurate representation?

Q: There are multiple additional claims and statements made within this Investment Brochure that are, or certainly appear to be false or misleading, but that would be equally simple for the FCA to 'validate' as to their accuracy. Can the FCA provide the information that it obtained so as to make its claim this week that all of the above and everything within this Investment Brochure was factually correct, clear, fair and not misleading or false?

FOIA ELEMENT 3 - FSMA specific confirmations:

[background removed]

Q: Can the FCA please provide information so as to explain how they have come to deem this Investment Brochure as being compliant, and why the FCA has sought to claim since April 2020 that everything pursuant to Blackmore Bond was beyond their perimeter, authority and powers when the Blackmore Bond Investment Brochure itself confirms that they were very much within the FCA perimeter, authority and powers, just as I and other professionals have been saying for five or more years?

Q: I must also ask the FCA for information as to why it has made those false representations to the media (Telegraph and FT Adviser to name but two), to me, to the TSC, to Parliament via statements it gave to [name redacted] who then read them in the House of Commons to all MP's, and via a briefing document produced by HM Treasury and circulated to MP's after the Panorama programme was broadcast, with intent to mislead MP's and their constituents that were victims?

FOIA ELEMENT 4 - FCA halo –

[background removed]

Q: Can the FCA provide information to explain why it did not find that the repeated inclusions and references as to the involvement of FCA regulated parties did not mislead investors, or represent the same use of references to FCA authorised parties that Dame Gloster confirmed created a 'Halo' of respectability and trust on the basis that there as FCA oversight?

Please note, I will be making a further FOI request specific to the false representations made by the FCA since April 2020, and that were rather exposed as false by other of [name redacted] representations at the APM.

Regards

[name redacted]

Information request dated 18 October 2022 (at 15:34):

“TO THE FCA DATA TEAM, New evidence and testimony relating to the ‘BLACKMORE BOND FOI

REQUEST 5’ below, and prompts this further request for information as an additional request under ELEMENT 2.

In my Freedom of information request below I asked the following:

[background removed]

Q: Are any of the claims made by this Blackmore Bond Investment Brochure as to completed Blackmore Bond [Not Blackmore Group or other vehicle] projects and their values and returns correct?"

[background removed]

Q: Can the FCA please provide the information upon which it relied, and the information specific to the FCA’s review of these documents and that validated all claims within them as per [name redacted] stated last week.

Statements where he and the FCA confirmed that all of the Blackmore Bond marketing material produced and/or signed off by an FCA regulated firm was all appropriate and that it was all ‘fair, clear and not misleading’.

Regards

[name redacted]

Information request dated 18 October 2022 (at 17:49):

“To the FCA data team,

(TSC and Transparency Taskforce copied)

Further to representations made by [name redacted] yesterday at the FCA APM in respect to ‘Blackmore Bond’ please find below the next of several FOI requests in respect to those Blackmore Bond representations.

BLACKMORE BOND FOI REQUEST 6

Q: Can the FCA therefore provide information to explain why it failed to exercise these powers in response to my reports and the intelligence that I provided within them in March 2017.

Q: Can the FCA therefore provide information to explain why it has repeatedly made representations to me, the investors, the media, the public and MP’s [both individually and collectively via APPG’s and Committees] that it knew to be false and/or misleading, to the effect that everything about Blackmore Bond was beyond the FCA perimeter, authority and powers?

Q: Can the FCA also provide information to explain why it made representations to the BBC for inclusion in the BBC Panorama programme to the same effect and that it knew to be false and/or misleading?

Q: Can the FCA also provide information to explain why it made representations to the BBC for inclusion in the BBC Panorama programme claiming that it was acceptable for the firm to accept self certification by consumers as to sophistication and by way of 'ticking a box', when the FCA itself had prohibited such a practise in 2016, and therefore knew this representation to be false and/or misleading?

Q: Can the FCA also provide information to explain why it made representations to the BBC for inclusion in the BBC Panorama programme claiming that the FCA had shared information with City of London Police in 2017 when it knew such a representation to be misleading at best, given that the FCA admitted to me in writing on 21st December 2021 (see the admissions from that letter below) that it had failed to share the most important and detailed information and intelligence, including mine with City of London Police.

"In addition, regarding Blackmore, I have reviewed evidence that shows the FCA shared intelligence about this entity with other law enforcement agencies in July 2017. The underlying details of this intelligence, which would have included your March 2017 communications were, however, unfortunately not shared due to human error."

[background removed]

Q: [name redacted] made representations as to this and other elements that the FCA is investigating, and that the Insolvency Service has investigated.

HOWEVER, neither I nor any of the investors within the very large group of more than 500 that I am in constant contact with, has been approached by the FCA in respect to the FCA investigation that is focusing apparently on what investors were told during the marketing and sales process. Can the FCA please provide information as to how it is managing to conduct an investigation into what consumers were told, without appearing to have contacted any consumers that invested in Blackmore Bond?

Q: Can the FCA also provide information as to why none of the investors that submitted a complaint to the FCA in respect to Blackmore Bond have been contacted by the FCA for the purpose of these investigations, given that it would be a most sensible and obvious step?

Q: The evidence that I do have in respect to a limited number of 'investors' that have been contacted by the Insolvency Service with a basicquestionnaire, suggests that only those that invested the largest amounts have been contacted. Such an approach would obviously skew any findings to wrongly suggest that only sophisticated or HNW (High Net Worth) consumers were marketed the Blackmore Bond, which is clearly not true. Please provide information so as to confirm or deny this 'selection' criteria. I look forward to your response.

[name redacted]

