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“What’s the Deal?” Corporate Sponsorship and FOIA 2000 - Garrard v Information Commissioner and British Museum

The General Regulatory Chamber of the First-tier Tribunal has made a substitute decision in the case *Garrard v Information Commissioner and the British Museum* [2024] UKFTT 601 (GRC). The Appellant, Dr Christopher Garrard, was successful in part. The reasons will be of interest to those seeking to use information law to access corporate sponsorship arrangements between public institutions and fossil fuel companies, and to those seeking to resist such efforts.

The appeal concerned Dr Garrard’s request to the British Museum in 2022 for information relating to sponsorship negotiations between the British Museum and BP. Dr Garrard challenged the British Museum’s reliance on the commercial interests exemption under section 43(2) of the Freedom of Information Act 2000. He argued that the exemption was not engaged and, even if it was, the public interest was weighted in favour of disclosure.

The Tribunal accepted that the sponsorship relationship was not purely commercial. Rather, the relationship was in part philanthropic and has wider benefits for the reputation of the sponsor. Nonetheless, the Museum’s commercial interests were engaged in relation to some of the information in issue because: the prospects of the Museum securing a favourable agreement would likely have been diminished if this information had been shown to BP at the time of the request; the publication would have undermined the trust of BP and other potential sponsors in the Museum; and that publication would have been given valuable insight to competitors for sponsorship.

In relation to the public interest, the Tribunal accepted that there was a very strong public interest in transparency for the reasons given by the Appellant. In particular, the Tribunal accepted Dr Garrard’s submission that there is a strong public interest in transparency in relation to how the Museum manages “a striking intermingling of public and private interests” and in relation to the Museum’s role in “bestowing the imprimatur of state approval via partnership with such private interests”. The Tribunal accepted that there was a strong public interest in information that sheds light on matters subject to public debate such as the ethics of sponsorship by fossil fuel companies. The Tribunal also accepted that there is a strong public interest in information that demonstrates whether the

Museum was adopting an “ethical approach” to carrying out due diligence in relation to the potential renewal of its relationship with BP.

However, the Tribunal ultimately concluded that this very strong public interest in transparency was outweighed by the weighty public interest in maintaining the exemption. The Tribunal accepted that there is a weighty public interest in the Museum remaining able to obtain the best possible deals with its sponsors, such as BP, and its continuing ability to maximise its funds from commercial sponsorship. The Tribunal noted that the Museum is an institution of substantial public importance subject to public funding constraints.

The key factor in tipping the balance in favour of the Museum was the value of the remaining withheld information in relation to the public interest factors in favour of disclosure. The Tribunal concluded that the remaining withheld information would only serve the public interest in disclosure or inform public debate to a limited extent. For this reason, the Tribunal concluded that where section 43(2) was engaged, the public interest favoured maintaining the exemption. The Tribunal ordered the disclosure of the information that did not attract the protection of section 43(2).

The First-tier Tribunal’s substitute decision and reasons can be found [here](#).

James Goudie KC acted for the Appellant, Dr Christopher Garrard, instructed by Paul Taylor of Richard Buxton Solicitors. Robin Hopkins acted for the Second Respondent, the British Museum. Leo Davidson acted for the First Respondent, the Information Commissioner, in producing written submissions at the pleading stage.