



**FIRST-TIER TRIBUNAL  
GENERAL REGULATORY CHAMBER**

<b>Appellant:</b> Ochieng Ogol	<b>Tribunal Ref</b> EA/2012/0139
<b>Respondent:</b> The Information Commissioner	

**DECISION NOTICE**

1. By letter dated 23 November 2011 Mr Ogol requested some information from Sport England. He asked nine questions in respect of each of 1,269 awards made in connection with basketball. By letter dated 28 November 2011 Sport England answered the questions in general terms but refused to give the information in respect of each of the awards. This was because the format in which their files were held did not match the questions which were asked. Retrieving the information by examining individual files would breach the cost limit of the Freedom of Information Act. This limit can be taken to be £450 or 18 hours work. Sport England did offer to answer Mr Ogol's questions if he were willing to reduce the scope of his request to a sample of somewhere between five and ten of the awards. There was some ambiguity as to who was to take the initiative to arrange this.
2. Mr Ogol complained to the Information Commissioner (ICO) who issued a decision notice on 30 May 2012. On the costs issue, the ICO examined a set of calculations produced by Sport England (see para 19) and upheld the refusal to meet the request. On the question of whether Sport England provided reasonable assistance to Mr Ogol the ICO concluded that, rather than leave things hanging in the air, as they had done, Sport England could have referred back to Mr Ogol to see if he wanted them to proceed with the smaller sample of cases. He considered there was a breach of the duty in Section 16 of the Act to offer Mr Ogol reasonable assistance.
3. The ICO is quite satisfied with Sport England's subsequent actions to rectify this but Mr Ogol is not. More details are to be found in para 33 of the ICO decision notice and paras 7-11 of observations lodged with the Tribunal by the ICO in August 2012. Mr Ogol now appeals to the Tribunal against the ICO decision notice. I have concluded for the following reasons that his case has no reasonable prospect of succeeding.

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**Decision Continued****Appellant:** Ochieng Ogol**Date of Decision:** 22 August 2012      **Tribunal Reference:** EA/2012/0139

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4. On the costs issue, it is not easy to follow Mr Ogol's grounds of appeal and I cannot derive from them a reasoned attack on the ICO decision. The Tribunal gave Mr Ogol a further opportunity to explain his case on this issue and he replied to say that he was not contesting the argument. It seems to me that Mr Ogol is right to say that he no longer contests this issue. This is a case in which the breach of the cost limit is obvious.
5. On the question of the assistance given to Mr Ogol under section 16 again the grounds of appeal do not appear to assist the case and the Tribunal asked Mr Ogol to clarify his submissions. In response Mr Ogol reiterates that he is not prepared to accept Sport England's offer to choose the sample of applications from a list; he wants Sport England to do further work to refine the list. He appears to suggest that he is entitled to £450 of work under the Act.
6. In my judgement, the ICO were correct to approach this case in the context of the original request. I find it impossible, in all the circumstances, to think of any other conclusion more favourable to Mr Ogol that the ICO could have reached. It seems to me impossible to conclude that Sport England's approach was other than reasonable. A sample of 8, 9 or 10 cases would, on the available material, seem to come very close to, if not exceed the 18 hour limit. It is a mistake, in any event, to regard £450 worth of work as some sort of 'entitlement'. I accept the ICO arguments on this issue set out in their observations.
7. For completeness, I should mention that in his notice of appeal Mr Ogol stated that he was seeking an instruction from the Tribunal that Sport England should offer a more reasonable explanation as to why their data is not recorded in a format "that is transparent and more readily accessible for public scrutiny". In later observations, Mr Ogol accepts that how Sport England formats the data is a matter for them to decide. I accept the observations of the ICO that it is not a matter for the Tribunal to determine what information Sport England should hold or how they should hold it.
8. I therefore strikeout the proceedings under Rule 8(3)(c).

Signed:	NJ Warren	Date:	22 August 2012
	Chamber President		