



**FIRST-TIER TRIBUNAL  
GENERAL REGULATORY CHAMBER  
INFORMATION RIGHTS**

**Tribunal Reference:** EA/2012/0258  
**Appellant:** Leslie Clarkson  
**Respondent:** The Information Commissioner  
**Judge:** NJ Warren

**DECISION NOTICE**

1. Mr Clarkson is concerned about the content of a radio phone in broadcast by BBC Radio Stoke nearly seven years ago.
2. On 8 May 2012 he made a request under the Freedom of Information Act (FOIA). This was refused by the BBC. Mr Clarkson's complaint to the Information Commissioner's Office (ICO) was unsuccessful. He now appeals to the Tribunal and the ICO have applied to strike out the appeal.
3. Having considered all the documents I have reached the conclusion that this appeal cannot succeed. There is no prospect, in my judgement, of a Tribunal finding that the BBC held the information requested for purposes other than journalism. That being so, the information does not come within FOIA as explained by the ICO in his decision notice and response.
4. When asked to comment on the strike out application, Mr Clarkson argued that some of the information requested related to a BBC governors committee which considered a complaint which he had made. He submits that that committee is independent of the BBC and so the BBC's "derogation" from FOIA cannot apply. This argument too is doomed to failure because, even if factually correct, which I doubt, it would mean that the committee was not covered by FOIA at all.
5. I do not doubt the genuineness of Mr Clarkson's concerns but I would be doing no one any favours by allowing this appeal to proceed to a full hearing. I therefore strike it out on the ground that there is no reasonable prospect of it succeeding.

**(Signed on the original)**

**NJ Warren**

**Chamber President**

**Dated 1 February 2013**