



**Case Reference: EA/2022/0017 GDPR**

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

Heard: by determination on the papers

Heard on: 29 June 2022

Decision given on:

Before: Judge Alison McKenna

Between:

**STEFFI LUCY DIAS**

**Applicant**

**- and -**

**THE INFORMATION COMMISSIONER**

**Respondent**

**DECISION:**

**The appeal is struck out**

**REASONS**

1. The Applicant has by application dated 13 May 2022 asked for a Judge to consider afresh the Registrar's Decision of 12 May 2022, by which he struck out the Notice of Appeal as having no reasonable prospects of success.
2. The Applicant's application to the Tribunal dated 15 January was an application for an order under s. 166 of the Data Protection Act 2018. She submitted that the ICO had not responded appropriately to her complaint and sought a direction for her GPs practice to provide her with her medical records.
3. On 1 April 2022, the Information Commissioner responded to the application and invited the Applicant to withdraw her application to the Tribunal because it had provided the Applicant with an outcome which post-dated her Notice of Appeal. In the alternative, it proposed a strike out for no prospects of success.
4. The Applicant did not withdraw the appeal. Under rule 8 (4), the Applicant was given an opportunity to make representations in respect of the proposed strike out. I have considered the Applicant's submissions dated 8 April 2022, which were also considered by the Registrar.
5. The Applicant has made several additional submissions since the Registrar's strike out Decision. I understand from these that she has now initiated proceedings in the County Court and that she is

concerned that her GP's surgery has still not provided her with her medical records. I note that the Court has power to make directions about such matters, but that this Tribunal does not.

6. The powers of the Tribunal in determining a s. 166 application are limited to those set out in s. 166 (2). In order to exercise them, the Tribunal must be satisfied that the Commissioner has failed to progress a complaint made to the ICO under s. 165 DPA 2018. The jurisdiction to make an Order is limited to circumstances in which there has been a failure of the type set out in s. 166 (1) (a), (b) and (c).
7. In this case, it is clear that the ICO progressed the complaint and informed the Applicant on 9 February 2022 that it had informed the GP's practice that it had not yet responded appropriately to her request and must do so. The Applicant complains that the GP has still not complied with the ICO's direction and wishes further steps to be taken. I do sympathise with her frustration; however, this is not a remedy which the Tribunal can provide under s. 166 DPA 2018 and she must therefore explain the problems to the Court and ask it to assist her.
8. I therefore consider that the Notice of Appeal has no reasonable prospects of success as the ICO has responded to the complaint and the law does not allow me to take the enforcement action which the Applicant requests. Having considered the entire matter afresh, I agree with the Registrar's Decision of 12 May 2022. The application to the Tribunal is therefore struck out and will accordingly proceed no further.

**(Signed)**  
**Judge Alison McKenna**

**Dated: 29 June 2022**

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