



Appeal number: EA/2022/0020 GDPR

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

LINDSAY FRASER

Applicant

- and -

THE INFORMATION COMMISSIONER

Respondent

TRIBUNAL: JUDGE ALISON MCKENNA

Sitting in Chambers on 8 August 2022

**RULING
on Rule 4 (3) Application**

The appeal is struck out for the following reasons

REASONS

1. On 22 July 2022 the Registrar struck out the Applicant's Notice of Appeal as having no reasonable prospects of success. By email dated 24 July 2022, the Applicant has asked for the Registrar's Decision to be considered afresh by a Judge, pursuant to rule 4 (3) of the Tribunal's Rules¹. I have accordingly considered this matter afresh.
2. The strike out was made on the Information Commissioner's application, the Registrar also having considered the Applicant's submissions in reply.
3. The Applicant requested an oral hearing at which to make submissions in relation to the proposed strike out, but there is no entitlement to a hearing in connection with strike out proceedings – see rule 32 (3).
4. I have considered the Upper Tribunal's decision in *HMRC v Fairford Group (in liquidation) and Fairford Partnership Limited (in liquidation)* [2014] UKUT 0329 (TCC), in which it is stated at [41] that

¹ [General Regulatory Chamber tribunal procedure rules - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

...an application to strike out in the FTT under rule 8 (3) (c) should be considered in a similar way to an application under CPR 3.4 in civil proceedings (whilst recognising that there is no equivalent jurisdiction in the First-tier to summary judgement under Part 24). The Tribunal must consider whether there is a realistic, as opposed to a fanciful (in the sense of it being entirely without substance) prospect of succeeding on the issue at a full hearing...The Tribunal must avoid conducting a “mini-trial”. As Lord Hope observed in Three Rivers the strike out procedure is to deal with cases that are not fit for a full hearing at all.

5. Applying this approach, I have considered the matter afresh and concluded that the Applicant’s prospects of obtaining an Order under s. 166 DPA 2018 must be regarded as falling into the ‘fanciful’ category. This is because the ICO has submitted that it did provide him with an outcome to his complaint and the Applicant has not set out an arguable case to the contrary. I note that the Applicant does not agree with the ICO’s response, but that it not an argument which engages the Tribunal’s jurisdiction under s. 166 DPA 2018, which is procedural in nature. It does not therefore seem to me that any Judge could reasonably be expected to make the Order the Applicant continues to seek in the circumstances.
6. I note that in emails dated 22, 23 and 24 July the Applicant has suggested, incorrectly, that the Tribunal’s Registrar is not legally qualified and further that he is engaged in a conspiracy which breaches international law. He threatens the Registrar with various consequences. The Applicant has been most insistent that a Judge should look at his case and I hope he is satisfied now that I have done so. But I must record here my regret at the terms in which he has chosen to express himself to the Tribunal’s Registrar. As these proceedings are now at an end, I trust that his unfounded allegations against Mr Bamawo will also cease.
7. For all these reasons, I find myself in agreement with the Registrar. Having considered the matter afresh, I direct that the Notice of Appeal is struck out.

(Signed)

Dated: 8 August 2022

Judge Alison McKenna

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