



Neutral Citation No. [2023]-UKFTT-1088-(GRC)

Case Reference: PR/2023/0055/CLC

**First-tier Tribunal
(General Regulatory Chamber)**

**Decided without a hearing.
Decision given on: 12 January 2024**

Before

JUDGE NEVILLE

Between

BERIVAN TOPRAK YILDIRIM

Appellant

and

COUNCIL FOR LICENSED CONVEYANCERS

Respondent

Decision: The appeal is struck out for lack of jurisdiction, pursuant to rule 8(2)(a) of the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009.

REASONS

Background

1. On 20 June 2023 the respondent refused the appellant's application to become a Licensed Conveyancer. The appellant responded by lodging an appeal with this Tribunal.
2. Upon being sent a copy of the appeal notice, the respondent applied for an order under rule 8(2)(a) striking out the proceedings on the basis that the

Tribunal does not have jurisdiction in relation to them. It asserted that no enactment confers a right of appeal to this Tribunal against the decision. The relevant appeal provision could instead be found at section 29(1) of the Administration of Justice Act 1985:

29 Appeals from decisions of Council in relation to licences.

(1) Where, in the case of any person, the Council—

(a) refuses an application for a licence made by that person;

[...]

that person may appeal to the Discipline and Appeals Committee against that refusal or decision within one month of being notified of it.

3. In a witness statement submitted in response to the application, the appellant complained that no information had been provided with the decision explaining how to appeal to the Discipline and Appeals Committee. Instead, he had found the following website which appeared to suggest that there is a right of appeal to this Tribunal:

<https://www.gov.uk/guidance/conveyancing-appeal-against-a-decision-about-your-licence>

4. The page presently found at that link includes the following:

What you can appeal against

You must have a licence to provide conveyancing services, unless you belong to another legal professional body like the Law Society.

You can appeal to the tribunal if the Council for Licensed Conveyancers (CLC):

- refuses to give you a licence*
- suspends or revokes your licence*
- adds conditions to your licence*
- fines you for breaking the licensing rules*

Your case will be dealt with by a tribunal in the General Regulatory Chamber.

and:

Legislation and rules

You have the right to appeal to the tribunal under The Legal Services Act 2007 (Appeals from Licensing Authority Decisions) (No 2) Order 2011.

5. In a decision dated 24 November 2023, Judge McKenna gave the respondent permission to make further representations in response to the witness statement, and for the respondent to reply.
6. In its further submissions, the respondent acknowledges that the gov.uk website contains the above information but asserts that it is wrong: section 29(1) is clear, and the statutory instrument cited on the gov.uk website, which has the SI number 2011/2863, concerns appeals to the Solicitors Disciplinary Tribunal against decisions by the Law Society concerning the licensing of Alternative Business Structures.
7. There is another, similarly-named statutory instrument, The Legal Services Act 2007 (Appeals from Licensing Authority Decisions) Order 2011/1712, which provides as follows:

4. Appeals to be made to the First-tier Tribunal

- (1) *The First-tier Tribunal may hear and determine appeals from decisions made by the Council which are appealable under any provision of—*
 - (a) *Part 5 of the 2007 Act; or*
 - (b) *the Council's licensing rules.*
- (2) *The First-tier Tribunal may, in relation to appeals from decisions which are appealable under the Council's licensing rules—*
 - (a) *affirm the Council's decision in whole or in part;*
 - (b) *quash the Council's decision in whole or in part;*
 - (c) *substitute for all or part of the Council's decision another decision of a kind that the Council could have taken;*
 - (d) *remit a matter to the Council (generally, or for determination in accordance with a finding made or direction given by the First-tier Tribunal).*

8. The term "Council's licensing rules" at article 4(1)(b) is confusing at first glance, because the respondent also refers to its regulation of individual practitioners as "licensing". But I agree with the respondent that it must be read as part of the wider licensing scheme in Part 5 of the Legal Services Act 2007. This applies to a number of legal regulators and relates to the licensing of Alternative

Business Structures, not regulation of individual practitioners. Taken together with the clear wording of section 29(1) of the 1985 Act, it becomes clear that this statutory instrument confers no right of appeal against decisions by the respondent to refuse to license an individual conveyancer.

9. The appellant's further response simply repeats the complaint that no route of appeal was identified in the respondent's decision. This is not a matter that I can take into account.
10. The appellant deserves sympathy for following gov.uk guidance that appears to be entirely wrong. But wrong or not, the guidance cannot confer jurisdiction on the Tribunal to hear the appeal. Only an Act of Parliament (or a statutory instrument made under an Act of Parliament) can do that. There is no right of appeal to the Tribunal against the respondent's decision and, applying rule 8(2) (a), the proceedings must be struck out.
11. A copy of this decision will be passed to those responsible for maintaining the relevant gov.uk content with a request that it be corrected.

Signed

Judge Neville

Date:

28 December 2023