



NCN: [2023] UKFTT 163 (GRC)

Case Reference: EA/ 2022/0349

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

10 Heard: by determination on the papers
Heard on: 20 February 2023
Decision given on: 21 February 2023
Before: Judge Alison McKenna

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Dr. SAIM KOKSAL

Applicant

- and -

THE INFORMATION COMMISSIONER

Respondent

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**RULING on rule 4 (3) Application:
This appeal is struck out.**

REASONS

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1. On 26 January 2023 the Registrar struck out this appeal under rule 8 (3)(c) of the Tribunal's Rules¹, on the basis that it had no reasonable prospects of success. By application dated 9 February 2023, the Applicant asked for a Judge to consider the matter afresh, pursuant to rule 4 (3) of the Tribunal's Rules. This I now do.
2. This appeal concerns a Decision Notice issued by the Information Commissioner on 6 October 2022. The Information Commissioner's Office was the relevant public authority. The Decision Notice found that, in so far as the request was for recorded information at all, it was exempt from disclosure under s. 21 FOIA 2000 because it was for information already available elsewhere.
3. The Applicant filed a Notice of Appeal dated 21 October 2022. It relied on grounds which criticised the work of the Financial Conduct Authority and the service standards of the Information Commissioner's Office in dealing with data protection complaints. It did not appear to engage with the jurisdiction of this Tribunal under FOIA 2000.²

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¹ [The Tribunal Procedure \(First-tier Tribunal\) \(General Regulatory Chamber\) Rules 2009 \(publishing.service.gov.uk\)](#)

² [Freedom of Information Act 2000 \(legislation.gov.uk\)](#)

4. In its Response to the appeal on 29 November 2022, the Respondent asked the Tribunal to strike out the appeal. As is required by rule 8 (4) of the Tribunal's Rules, the Applicant was given an opportunity to make further representations. As I have said, the Registrar considered these on 26 January 2023 and concluded that the appeal should be struck out.

5. I am required to consider this matter afresh, and so I have reviewed all the relevant papers. I note that the Notice of Appeal asks the Tribunal to consider the 'professional negligence' of the ICO and to tackle its 'regulatory ambivalence' with regards to data protection issues. The Applicant's Reply to the Respondent's Response dated 12 December 2022 repeats these complaints, as do his submissions on the proposed strike out. However, he still does not suggest that the Decision Notice's conclusions are wrong in law.

6. 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

...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.

7. Having considered the sum of the Applicant's correspondence to date, it seems to me that he wishes to make a complaint about the ICO. However, the Tribunal does not determine customer service complaints. It may only act within the statutory powers conferred on it by Parliament. In this case, the Applicant has simply not engaged with the jurisdiction of this Tribunal under sections 57 and 58 of FOIA 2000 and so I conclude that no Tribunal panel, properly directed, could allow this appeal. Accordingly, I find that it is not fit for trial.

8. In all the circumstances, I conclude that this appeal has no reasonable prospects of success and so I now strike it out pursuant to rule 8 (3) (c) of the Tribunal's Rules.

(signed)
Judge Alison McKenna

Dated: 20 February 2023

