



NCN: [2023] UKFTT 166 (GRC)

Case Reference: EA/ 2022/0327

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

Heard: by determination on the papers

Heard on: 21 February 2023

Decision given on: 22 February 2023

Before:
Judge Alison McKenna

TAYO ALUKO

Appellant

- and -

THE INFORMATION COMMISSIONER

Respondent

DECISION on strike out application:

This appeal is struck out under rule 8 (2) (a) as the Tribunal has no jurisdiction to determine it.

REASONS

1. The Respondent's application for strike out dated 6 January 2023 is allowed.
2. The Information Commissioner published a Decision Notice dated 18 October 2022 in which he found that the public authority had disclosed the information requested by the Appellant.
3. The Appellant filed a Notice of Appeal 24 October 2022. The Appellant's Grounds of Appeal are that the information disclosed had been digitally manipulated by the public authority and that the Information Commissioner should not have investigated this issue further. By way of remedy, he asks for the disclosure of genuine information.
4. On 6 January 2023, the Information Commissioner, in filing its Response to the appeal, applied for a strike out under rule 8 (3)(c) or rule 8 (2) (a) of the Tribunal's rules on the basis that the appeal had no reasonable prospects of success or that the Tribunal had no jurisdiction to determine it.
5. The Appellant was invited to make submissions in response to the proposed strike out, as required by rule 8 (4). On 10 January 2023 he submitted that there had been an inappropriate exercise of discretion by the Information Commissioner during the investigation in accepting the public authority's statement that the documents were unaltered.
6. It seems to me that the Applicant may have misunderstood the role of the Tribunal. This is to determine appeals within the statutory framework created by Parliament. As such, an appeal may only proceed if it alleges that the Decision Notice itself was wrong in law or involved an inappropriate exercise of discretion by the Information Commissioner. In this case, the Appellant's focus is on the investigation carried out by the Information Commissioner and not on the Decision Notice itself.
7. I can understand why the Appellant's confidence in the public authority was shaken by his experience. I understand that he was initially given redacted copies of the information he had requested, then later given unredacted versions. He then suspected that the documents had been manipulated. The Information Commissioner states in his Response that in view of this very serious allegation, he asked his Criminal Investigations Team to examine the documents. They reported that there was no evidence of digital manipulation.
8. The Tribunal may only act within the statutory remit given to it by Parliament, and investigating whether a document has been manipulated is not within its jurisdiction. The conduct of the Information Commissioner's investigation is also not within its jurisdiction. Accordingly, I have concluded that the grounds of appeal do not engage

the Tribunal's statutory jurisdiction under s. 57 and 58 FOIA¹. They do not allege that the Decision Notice is wrong in law in any respect or that it involved an inappropriate exercise of discretion. Having regard to the Tribunal's powers under s. 58 FOIA, I note that the Applicant asks for a remedy which the Tribunal may not provide.

9. It does not therefore seem to me that the Tribunal has jurisdiction to determine this appeal. In such circumstances, a strike out is mandatory. I now direct a strike out accordingly.

(Signed)

Dated: 21 February 2023

Judge Alison McKenna

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¹ [Freedom of Information Act 2000 \(legislation.gov.uk\)](https://legislation.gov.uk)

