



NCN: [2023] UKFTT 00208 (GRC)

Case Reference: EA/ 2022/0335

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

Heard: by determination on the papers  
Heard on: 21 February 2023  
Decision given on: 24 February 2023  
Before: Judge Alison McKenna  
Between:

**MARK JERVIS**

**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 Information Commissioner published his Decision Notice on 28 September 2022, in which he found that the public authority was entitled to rely upon the exemption from disclosure under s.22 FOIA 2000.
2. The Appellant filed a Notice of Appeal on 27 October 2022. The Appellant's grounds of appeal were that he did not believe the requested information was truly intended for publication, and that there was a public interest in its disclosure. However, his grounds of appeal focused on the behaviour of the public authority and did not explain why the Decision Notice was wrong in law or involved an inappropriate exercise of discretion.
3. On 23 January 2023, the Information Commissioner, in filing its Response to the appeal, applied for a strike out under rule 8 (3)(c) of the Tribunal's rules<sup>1</sup> on the basis that the appeal had no reasonable prospects of success.
4. The Appellant was invited to make submissions in response to the proposed strike out, as required by rule 8 (4). On 23 January 2023 he complained that the Information Commissioner had not addressed all his grounds of appeal and again criticised the conduct of the public authority.
5. It seems to me that the Appellant 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 was wrong in law or involved an inappropriate exercise of discretion by the Information Commissioner.
6. In this case, I have concluded that the grounds of appeal do not engage the Tribunal's statutory jurisdiction under s. 57 and 58 FOIA<sup>2</sup>. They do not allege that the Decision Notice is wrong in law in any particular respect or that it involved an inappropriate exercise of discretion but instead focus on challenging the behaviour of the public authority. However, the behaviour of the public authority is not within the Tribunal's jurisdiction.
7. 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.
8. I note that the Respondent applied for a discretionary strike out under rule 8 (3) (c). In view of my finding that the Tribunal lacks jurisdiction to determine this appeal, it is not necessary for me to determine that application.

**(Signed)**

**Dated: 21 February 2023**

**Judge Alison McKenna**

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

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

