



Neutral citation number: [2023] UKFTT 00690 (GRC)

Case Reference: EA/2023/0291

**First-tier Tribunal  
General Regulatory Chamber  
Information Rights**

**Heard: on the papers**

**Heard on: 25 August 2023  
Decision given on: 25 August 2023**

**Before**

**TRIBUNAL JUDGE FOSS**

**Between**

**JOHN SAMSON MILLER**

Appellant

**and**

**THE INFORMATION COMMISSIONER**

Respondent

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

## **REASONS**

1. The Appellant appeals against a Decision Notice of the Information Commissioner (“the Commissioner”) dated 1 June 2023. The Commissioner has applied to strike out the appeal under rule 8(2)(a) of the Tribunal Rules as the subject matter of the appeal falls outside the Tribunal’s jurisdiction.

*The Request*

2. As described by the Commissioner in his Response to the appeal, by request dated 20 July 2022, the Appellant asked the Home Office to check whether any of his grandparents was registered as a British citizen. He had previously been provided by the Home Office with a report of his father's British passports. He provided various documents showing relevant names, dates of birth etc, to assist the Home Office in considering his request. He provided further documents on 4 August 2022, including copies of passports and death certificates. On 8 August 2022, the Home Office told the Appellant that it had "*carried out a thorough search*", but that it did not hold passport records for the other named parties. On 29 August 2022, the Appellant requested an internal review. The Home Office provided an internal review on 21 October 2022, in which it maintained its position.
3. On 1 November 2022 the Appellant complained to the Commissioner. His complaint rested in his belief that his efforts to establish "*a direct line to UK Nationality*" were being hampered as he had only been provided with his father's British passport, and he needed more extensive documentation than that to assist him in establishing a route towards "*a British passport, ancestral visa or certificate of entitlement, right of abode.*"

#### *The Decision Notice*

4. By his Decision Notice, the Commissioner stated that he had sought to determine whether, on the balance of probabilities, the Home Office held any recorded information within the scope of the request. The Commissioner set out: the Home Office's explanation of the scope of information it holds (records for British Nationals on microfiche, Digital microfiche and on a current, electronic computer system, and the periods covered by such records); and the extent of its stated searches in relation to the Appellant's request. The Commissioner concluded that, on the balance of probabilities, no recorded information within the scope of the request was held, and that the Home Office had complied with the requirements of s.1 FOIA in this case.

#### *The Appeal*

5. By his Notice of Appeal dated 13 June 2023, the Appellant did not take issue with the extent of the Home Office's searches or the Decision Notice. Rather, he noted that probability pointed to the likelihood of his being of British descent but that without the relevant records, he was unable to file a relevant application with the Home Office. By his Notice of Appeal, he expressly seeks assistance from the Tribunal with a route towards a right of abode in the United Kingdom.

#### *The Commissioner's Response*

6. The Commissioner's Response dated 27 June 2023 submits as follows, in summary: the Appellant has not provided any new evidence which would suggest, on the balance of probabilities, that information falling within the scope of the request is held by the Home Office; the Commissioner is entitled to accept the word of the Home Office as to the adequacy of the searches conducted; it is clear that another record previously requested (which was held by the Home Office) was provided to the Appellant as referred to in the request, and the Commissioner can see no reason why the Home Office would not provide the further records requested if these were held; the Appellant appears to accept that the requested information is not held by the Home Office and therefore seeks assistance from

the Tribunal in establishing British nationality; assisting a person in establishing British nationality falls outside the scope of the Commissioner's jurisdiction.

*The Appellant's Reply*

7. By his Reply dated 7 August 2023 to the Commissioner's Response, the Appellant states that he does not dispute the Commissioner's "findings", which I take to mean the Decision Notice, and he accepts that the Tribunal cannot grant him a route to British nationality. He says that the purpose of his request to the Commissioner was to try to obtain some advice or referral to a relevant authority for further assistance.

*Discussion and Conclusion*

8. The jurisdiction of this Tribunal under s.57 and s58 of FOIA is to decide whether there is an error of law or inappropriate exercise of discretion in the Decision Notice. The grounds of appeal do not engage with that jurisdiction; they do not identify any error of law or inappropriate exercise of discretion. Indeed, the Appellant accepts that he does not dispute the Decision Notice, and what he has sought from the Commissioner, and seeks from the Tribunal now, is assistance in what he describes as his "ancestral search" for the purposes of establishing British nationality. That is outwith the jurisdiction of this Tribunal, and, accordingly, I strike out the appeal pursuant to Rule (8)(2) (a) of the Tribunal Rules.

Signed: *Penrose Foss*

Date: 25 August 2023.