



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

**Appeal reference: EA/2022/0186  
Decision given on : 19 January 2023**

**Between**

**Isabelle Raynor obo Paul Kirby**

**Appellant**

**And**

**Information Commissioner**

**First Respondents**

**DECISION TO STRIKE OUT THE APPEAL**

**This appeal is struck out because the appellant has failed to co-operate with the Tribunal to such an extent that the Tribunal cannot deal with the proceedings fairly and justly.**

**REASONS**

1. On 15 December 2022, I directed the parties to provide dates on which they could attend a case management hearing. I told Ms Raynor and her father Mr Kirby that the tribunal could accommodate their need for adjustments to the process.
2. No reply was received from either Ms Raynor or her father despite a reminder being sent by HMCTS.
3. In my directions dated 28 December 2022 I explained that
  - a. when you bring an appeal to the tribunal you have a duty to co-operate with the tribunal in the proceedings.
  - b. The tribunal is independent of all the parties and the council to whom the information request was made.

- c. The tribunal does not have access to any of the documents unless we are given that material by the parties to the appeal.
  - d. The tribunal can adjust its processes to enable participation, and is more than willing to do so in order to accommodate a change to the time of day or a request to have a conversation by phone as opposed to video.
4. I also explained that the Tribunal was considering whether to strike out this appeal because the appellant had failed to co-operate with the Tribunal to such an extent that the Tribunal cannot deal with the proceedings fairly and justly.
5. I therefore directed that unless Ms Raynor OR Mr Kirby contacted the tribunal to
  - a. make any representations they have upon the issue of whether the case should be struck out or allowed to proceed and
  - b. to give the dates and times on which they can participate in a case management hearing in January or February and
  - c. to explain their lack of communication with the tribunalby 5pm on 11 January 2023 then the tribunal would proceed to determine whether to strike out the appeal without their representations.
6. No reply or further communication from the appellants is on the tribunal file. The Information Commissioner has not informed the tribunal that Ms Raynor or her father has been in touch with them.
7. I note that it is Mr Kirkby who would require reasonable adjustments to participate in any appeal. Ms Raynor works and is unable to participate in her working hours but has not told the tribunal that there is any other reason why she requires reasonable adjustments.
8. The tribunal registrar directed a case management hearing, and I made the same direction having reconsidered the position under rule 4(3). The tribunal has attempted to explain its role to the parties and to change its processes to enable participation from the appellant but since 18 November 2022 no correspondence has been received and the tribunal's directions have not been complied with.
9. In the absence of compliance or any other contact I am driven to the conclusion that Ms Raynor is failing to co-operate with this tribunal. Mr Kirkby requires

reasonable adjustments but his daughter has given no indication that there is any impediment to her participation beyond having to deal with matters outside her normal working hours.

10. I recognise that striking out an appeal is a draconian measure but judicial resources are not to be wasted on determining a matter where the appellant is not co-operating to such an extent that a fair and just hearing cannot take place.
11. I have considered whether to direct a paper consideration rather than strike out the case. However, fairness must be done to each party and in this case fairness to the respondent would likely require the joining of the public authority and the need for them to spend time and resources on an appeal where the appellant is not willing to engage. In my judgement that would not be fair or just.
12. Therefore I strike out this appeal under rule 8(3)(b) because the appellant has failed to co-operate with the Tribunal to such an extent that the Tribunal cannot deal with the proceedings fairly and justly.

*Lynn Griffin*

**Tribunal Judge Lynn Griffin  
19 January 2023**