



**IN THE FIRST TIER TRIBUNAL
(INFORMATION RIGHTS)**

**RULING on an APPLICATION for PERMISSION to APPEAL
By**

Mr William Thackeray

1. This is an application dated 14 September 2010 by Mr William Thackeray for permission to appeal the decision of the First Tier Tribunal (Information Rights) (“FTT”) dated 14 May 2010 (EA 2009/0095) (“the FTT Decision”). The Decision dismissed the appeal of Mr Thackeray.
2. The right to appeal against a decision of the FTT is restricted to those cases which raise a point of law. The FTT accepts that this is a valid application for permission to appeal under rule 42 of the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009 as amended (“the Rules”).
3. Under rule 42(2) Mr Thackeray had one month from the date of the FTT decision being sent to him to lodge the appeal with the FTT. As will be seen from the dates above Mr Thackeray’s application for permission to appeal is approximately 9 months over the deadline.
4. There is a discretion under rule 42(4)(e) read with rule 5(3)(a) for the Tribunal to allow an application out of time. This discretion will normally be exercised where it would be fair and just to do so, taking into account the reasons given and all the circumstances of the case. Mr Thackeray has requested that the FTT exercise this discretion in his favour on three grounds:
 - a. *“I have been waiting in order to allow time for the public authority to release further information, as recommended by the Tribunal (Decision paragraph 46). It has not done so and refuses to discuss whether further information will be refused in the future.*
 - b. *I am not represented.*

- c. *I have no financial interest in this matter and it is not part of my work; it is something I am pursuing for the public benefit outside of working hours.”*

5. Paragraph 46 of the FTT Decision stated:

“The Tribunal upheld the IC’s Decision Notice and dismissed the appeal. It noted that Mr Thackeray sought an understanding of the reasons behind the decision taken by the Council that COSREC was entitled to rate relief. In the Tribunal’s view, this would be better satisfied by disclosure of the underlying facts taken into account by the Council. In its view the case for disclosure was likely to be stronger in relation to material that was not legally professionally privileged given the significant public interests that arise in this case. The Tribunal was aware however that the Council had refused disclosure of such information in response to Mr Thackeray’s further requests under FOIA. The Tribunal wished to recommend to the Council that it reconsider its position in the light of this Tribunal’s assessment of the public interests in favour of disclosure.”

6. As is clear from the above extract, the Tribunal made no more than a recommendation that the Common Council of the City of London reconsider its position in the light of the Tribunal’s assessment of the public interest factors. Thus, there was nothing binding in this recommendation – the Council was free to consider or ignore the Tribunal’s views. In any event, the Tribunal notes that its recommendation was with regard to the processing of a separate request under the Freedom of Information Act 2000, which Mr Thackeray could have appealed in the normal way. The Tribunal did not accept his waiting to see if any further documentation would voluntarily be released as a result of the above paragraph, was a good reason for such a late application for permission to appeal. Mr Thackeray would have been made aware of the 28 day time limit for lodging an appeal and, it appeared, he had not corresponded with the Tribunal office until receipt of the application for permission to appeal in September 2010.
7. The Tribunal did not moreover accept Mr Thackeray’s second and third reasons as sufficient to lead to an extension of the deadline. It was not uncommon for appellants to be unrepresented, to have no financial interest in the matter and to be acting wholly in the public interest. Nevertheless the great majority managed to comply with the Tribunal rules and deadlines. A deadline for lodging an application for permission to appeal was intended to give finality to a matter both as a matter of administrative justice but also to allow public authorities to move on from protracted disputes and to concentrate on their other functions.

8. Permission to appeal is refused.

9. Under rule 21(3) the Tribunal Procedure (Upper Tribunal) Rules 2008 as amended Mr Thackeray has one month from the date this Ruling was sent to him to lodge the appeal with:

The Upper Tribunal (Administrative Appeals Chamber)
5th Floor, Chichester Rents
81 Chancery Lane
London
WC2A 1DD

10. Any application for the appeal to be stayed should be made to the Administrative Appeals Chamber of the Upper Tribunal at the same address.

Melanie Carter
Tribunal Judge
First-tier Tribunal (Information Rights)
22 September 2010