



**IN THE MATTER OF AN APPEAL TO THE FIRST-TIER TRIBUNAL
(INFORMATION RIGHTS) UNDER SECTION 57 OF THE FREEDOM OF
INFORMATION ACT 2000**

Appeal No. EA/2011/0205

BETWEEN:-

COLIN PARKER

Appellant

and

THE INFORMATION COMMISSIONER

Respondent

**DECISION ON APPLICATION FOR
PERMISSION TO APPEAL**

1. Mr Parker seeks permission to appeal against my ruling of 7 November 2011 striking out his appeal against the Information Commissioner's decision notice dated 23 August 2011. Such permission is only granted if an arguable point of law is raised.
2. Section D of Mr Parker's application is simply a list of different types of error of law without any specifics. I turn therefore to the four page attachment to the application.
3. In paragraph 1 of that attachment Mr Parker states that I made two errors of fact in paragraph 1 of my ruling. If they are indeed errors, they were based on misunderstandings and I apologize for them. Paragraph 1 of the ruling was by way of introduction and I am satisfied that these factual errors (if they were such) would not have made any difference to my conclusions.

4. In paragraph 2 Mr Parker states that information about the meeting of 24 March 2010 ought to have been provided under his requests (1) and (6). I am not aware that he had made this point previously but in any event I note that in the sixth paragraph of page 2 of their letter of 1 July 2010 the health authority took account of the meeting and stated that they had provided Mr Parker with all documents relating to it.
5. In paragraph 3 Mr Parker complains that the Tribunal has given inadequate reasons for the finding that all information under requests (1), (3), (5) and (6) had already been supplied. As I hope my ruling makes clear the burden of proof would be on Mr Parker to show on the balance of probabilities that there was information held by the health authority answering to the requests which went beyond that already supplied. Having considered the papers and given him the opportunity of a hearing I am of the view that he has not put forward anything which gives any grounds for believing that there is any realistic prospect of him succeeding in satisfying that burden: that is the reason I struck out his appeal.
6. Mr Parker goes on to make a number of other points in paragraph 3 none of which in my view raise any point of law:
 - (1) He complains that in response to his (later) request for “what was done by the [health authority] to arrive at its decision [and] what stages were undertaken in the procedures adopted” the health authority in their letter of 1 July 2010 have given a “description” and not “information”. There are two answers to this point: first, the distinction between a “description” and “information” in this context seems to me purely semantic; and second, the letter clearly states that there is no documentation (and therefore no *recorded* information) relevant to this request in any event;
 - (2) He complains about the use of the phrase “the documentation that is available regarding this matter” rather than, as he says, “relevant and recorded information being provided”. He appears to have taken the former phrase out of context: the writer of the letter of 4 May 2010 is referring to what an officer of the health authority did in response to Mr

Parker's original complaint about his appointment to the research ethics committee not being renewed.

- (3) He raises again the question of the "rotation system" and refers (as he did at the oral hearing) to paragraphs 15 and 29 of his original grounds for appeal. He draws a distinction between a phrase used by the health authority in their letter of 1 July 2010 ("We do not have such a rotation scheme to share with you")¹ and the phrase "We do not have a rotation scheme" and suggests there is something sinister in the use of the former phrase. I am afraid I am quite unable to see how this point progresses his case.
- (4) He says that the example of the rotation system provides evidence that the health authority has a motive to withhold information in its possession: I am afraid I just do not follow the point he is making here.
7. Mr Parker's paragraph 4 is simply an assertion that the Commissioner has not recognised the importance of the public authority complying with sections 1(1)(a) and (b) of the Act which takes the matter no further.
8. In paragraph 5 Mr Parker complains that he was "...unprepared to reply properly to the [health authority's] letters of 4 May 2010 and 1 July 2010." It is right to say that during the hearing I referred Mr Parker to these letters (not least because the letter of 4 May 2010 conveniently sets out his request for information in typescript). But since these letters comprise the very answer to Mr Parker's request for information which he alleges to be inadequate and since they were attached to his grounds of appeal and referred to therein and are obviously totally central to the case I cannot see how there can be anything in this complaint.
9. In paragraph 6 he returns yet again to the "rotation system" and says that I have failed to give reasons or adequate reasons in paragraph 6 of my ruling. I am afraid I have done my best to provide reasons (having due regard to the

¹ In fact the letter says "We do not have a rotation *list* to share with you" (my italics)

“overriding objective”)² and can do no more. Mr Parker goes on to refer to a dozen pages of information now in existence relating to the rotation system and again to refer to the distinction between a “description” and “information”. So far as the former point is concerned the relevant date was July 2010 not now; the latter point I have considered above.

10. I refuse Mr Parker’s application for permission to appeal against my ruling of 7 November 2011.

HH Judge Shanks
29 November 2011

² which requires the Tribunal among other things to deal with cases proportionately and to avoid unnecessary formality and delay.