



APPEAL NO. EA/2012/0113

**IN THE FIRST-TIER TRIBUNAL**  
**(GENERAL REGULATORY CHAMBER**  
**[INFORMATION RIGHTS])**  
**BETWEEN**

**JEFFREY DUDGEON**

**Appellant**

**AND**

**THE INFORMATION COMMISSIONER**

**First Respondent**

**AND**

**THE POLICE SERVICE OF NORTHERN IRELAND**

**Second Respondent**

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**APPLICATION FOR  
PERMISSION TO APPEAL<sup>1</sup>**

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**A relies upon: Freedom of Information Act 2000 part 5; Tribunals, Courts and Enforcement Act 2007 part 1; Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009 ('2009 rules'), SI 2009/1976, part 4.**

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<sup>1</sup> I use the abbreviations: ('A') appellant; ('R1') first respondent; ('R2') second respondent; ('NI') Northern Ireland; ('FOI') freedom of information.

**DECISION ON APPLICATION FOR PERMISSION TO APPEAL:**

*Ground One (the closed procedure point)*

1. **The FTT made an error of law, when, at the beginning of the hearing on 13 December 2012, it refused A's application regarding a closed procedure: decision notice, paras 1-2.**
  
2. **The Tribunal did acknowledge the arguments of the appellant on some of the issues raised but on balance ruled against the Application. However the Tribunal acknowledge there is a point of Law arising on the issue of closed procedure, materials and representatives access thereto. Permission to appeal on this ground is therefore granted.**

*Ground Two (the section 30 point)*

3. **The FTT made an error of law, when, considering A's grounds of appeal, it failed to make any, alternatively proper, findings of fact regarding A's argument of severability of documents, regarding the appointment of the panel etc, with any necessary redaction: decision notice, paras 9, 13 & 18-19.**
  
4. **On Ground Two the Appellant seeks to reargue issues of fact and Judgment. These were for the Tribunal to decide having given consideration to the particular circumstances and facts of this particular case and their conclusion has been explained to the standard required by law. An appeal to the Upper Tribunal can be made only on a point of Law. Permission to appeal on Ground Two is therefore refused.**

*Ground Three (the sections 23 & 24 point)*

5. **The FTT made an error of law, when, considering the national security exemption(s), it accepted that R2 was entitled to a broad-brush refusal to disclose any information from Operation Stafford: decision notice, paras 20-28.**
  
6. **On Ground Three the Appellant seeks to reargue issues of fact and Judgment. These were for the Tribunal to decide having given consideration to the particular circumstances and facts of this particular case and their conclusion has been explained to the standard required by law. An appeal to the Upper Tribunal can be made only on a point of Law. Permission to appeal on Ground Three is therefore refused.**

*Ground Four (the destroyed decision notice point)*

7. **The FTT made an error of law, when, on 26 April 2013, it directed the destruction of the first decision notice, rather than permit R2 to apply for permission to appeal: decision notice, 26 April 2013.**
  
8. **On Ground Four the Appellant seeks to reargue issues of fact and Judgment and in particular the withdrawal of a Judgment for mistake by the inclusion of closed material therein. These issues were for the Tribunal to decide having given consideration to the particular circumstances and facts of this particular case and their conclusion has been explained to the standard required by law.**

**Further the Appellant has not been denied an appeal on the wider issue of closed hearings and materials see Ground One above. An appeal to the Upper Tribunal can be made only on a point of Law. Permission to appeal on Ground Four is therefore refused.**

**Brian Kennedy QC**

**Tribunal Judge**

**15<sup>th</sup> July 2013.**