



**FIRST-TIER TRIBUNAL
GENERAL REGULATORY CHAMBER
Information Rights**

Tribunal Reference: EA/2015/0031
Appellant: Victor Sandell
Respondent: The Information Commissioner

Judge: Peter Lane

DECISION NOTICE

1. On 25 February 2015, the Registrar gave the parties an opportunity to make submissions regarding the possible striking-out of the appellant's appeal against what he appears to assert is an appealable decision contained in the Commissioner's letter of 8 January 2015, as regards which a notice of appeal was filed by the appellant on 4 February 2015.
2. As far as I can see, the position in essence appears to be as follows.
3. On 25 July 2014, the appellant, through his representative, asked East London NHS Foundation Trust for a copy of the appellant's complaints file. On 6 August 2014, the Trust supplied a copy of that file to the appellant. Certain information that was said not to be personal to the appellant had, however, been removed (redacted) from that file.
4. The appellant wanted to know the basis on which that information had been redacted. If the information was, contrary to the Trust's contention, the appellant's personal data, then section 40(1) of the FOI Act makes it subject to an absolute exemption. Assuming for the moment that this is not the position, then the redaction would be permissible under FOI only if (a) it related to someone else's personal data and the qualified exemption in section 40(2) applies; or (b) it was not personal data at all but some other exemption made it lawful for the Trust not to provide the information to the appellant.
5. Having seen a copy of the appellant's email of 24 February 2015 to the Trust, it appears that the appellant is still pursuing this matter with the Trust, by means of an internal review.

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6. Meanwhile, the Commissioner's letter of 8 January 2015 relates to a complaint that the appellant has made to the Commissioner. The letter is plainly not a decision notice that is appealable to the Tribunal under the FOI Act.
7. I have not seen any other correspondence between the appellant and the Commissioner and, as a result, the picture I have may well be incomplete. In particular, it is not clear to me that the appellant has received an answer to paragraph 4 above; that is to say, the Trust has not informed the appellant whether the redactions are the personal data of someone else or whether they are justified for some other reason (specifying that reason). Once the appellant has a response from the Trust, he may, if dissatisfied, apply to the Commissioner under section 50 of the FOI Act for a decision whether the Trust has dealt with the appellant's request as required by Part 1 of the Act. In short, the issue may still be one that will in due course generate a right of appeal to the Tribunal but, as matters stand, that is not the position and the letter of 8 January does not constitute an appealable decision. I have considered the case of *Sugar*, referred to by the appellant, but I do not regard it as relevant to the facts of this case.
8. I therefore strike out the appeal against the letter of 8 January for want of jurisdiction. I would, however, urge all concerned to focus on what is said in paragraph 4 above.

Peter Lane

Chamber President

Dated 16 March 2015