



Appeal number: EA/2021/0337 GDPR
NCN: [2022] UKFTT 00252 (GRC)

**FIRST-TIER TRIBUNAL
GENERAL REGULATORY CHAMBER
INFORMATION RIGHTS**

LIAM HARRON

Applicant

- and -

THE INFORMATION COMMISSIONER

Respondent

TRIBUNAL: JUDGE ALISON MCKENNA

Sitting in Chambers on 10 August 2022

**RULING
on Rule 4 (3) Application**

The appeal is struck out for the following reasons

REASONS

1. On 27 June 2022 the Registrar struck out the Applicant's Notice of Appeal as having no reasonable prospects of success. By email dated 6 July 2022, the Applicant has asked for the Registrar's Decision to be considered afresh by a Judge, pursuant to rule 4 (3) of the Tribunal's Rules¹. I have accordingly considered this matter afresh.
2. The strike out was made on the Information Commissioner's application, the Registrar also having considered the Applicant's submissions in reply.
3. The Applicant has requested an oral hearing (to be heard jointly with EA/2022/0076) at which to make submissions in relation to the strike out, but there is no entitlement to a hearing in connection with strike out proceedings – see rule 32 (3) - and so I refuse his request.
4. I have considered the Upper Tribunal's decision in *HMRC v Fairford Group (in liquidation) and Fairford Partnership Limited (in liquidation)* [2014] UKUT 0329 (TCC), in which it is stated at [41] that

¹ [General Regulatory Chamber tribunal procedure rules - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/106444/General_Regulatory_Chamber_tribunal_procedure_rules_-_GOV.UK.pdf)

...an application to strike out in the FTT under rule 8 (3) (c) should be considered in a similar way to an application under CPR 3.4 in civil proceedings (whilst recognising that there is no equivalent jurisdiction in the First-tier to summary judgement under Part 24). The Tribunal must consider whether there is a realistic, as opposed to a fanciful (in the sense of it being entirely without substance) prospect of succeeding on the issue at a full hearing...The Tribunal must avoid conducting a “mini-trial”. As Lord Hope observed in Three Rivers the strike out procedure is to deal with cases that are not fit for a full hearing at all.

5. Applying this approach, I have considered the matter afresh and concluded that the Applicant’s prospects of obtaining an Order under s. 166 DPA 2018 must be regarded as falling into the ‘fanciful’ category. This is because the ICO has submitted that it did provide him with an outcome to his complaint ref IC/120447-21F8 on 12 December 2021 and the Applicant has not set out an arguable case to the contrary, referring in his submissions to matter IC/121569-S9C2 instead. It does not therefore seem to me that any Judge could reasonably be expected to make the Order the Applicant continues to seek in the circumstances.
6. The Applicant has referred to a recent Upper Tribunal ruling in which UTJ Wikeley, whilst refusing permission to appeal, found that both the Registrar and myself had in that case misunderstood the Applicant’s argument. I note that Judge Wikeley observes at paragraph 36 of his ruling that he was himself labouring under the same misapprehension as ourselves for about 45 minutes of the hour-long permission hearing. Whilst the Applicant characterises this as a serious mistake on my part (for which I apologise), I would also ask him to reflect on the fact that a great deal of judicial time was expended before his point became clear and I would therefore ask him to consider whether he might seek to achieve greater clarity in his written submissions. It will not always be possible (as in this case) to allow him to expand upon his written case in a video hearing.
7. For all these reasons, I find myself in agreement with the Registrar. Having considered the matter afresh, I direct that this Notice of Appeal is struck out.

(Signed)

Dated: 10 August 2022

Judge Alison McKenna

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