



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

**RULING in relation to appeals from**

**The Information Commissioner's  
Decision Notices No: FS 50127453, FS50232752 and FS50246906  
Dated: 19 October 2009, 12 August 2009 and 24 August 2009 respectively**

**Appellant: Ismail Abdulhai Bhamjee**

**Respondent: Information Commissioner**

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**RULING**

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1. Mr Bhamjee lodged three notices of appeal with us well out of time. The appeals in relation to Decision Notices dated 12 and 24 August 2009 FS50232752 and FS50246906 ("DN 1" and "DN2") were lodged by Mr and Mrs Bhamjee jointly and dated 15 November 2010. The appeal in relation to the Decision Notice dated 19 October 2009 FS 50127453 ("DN3") was dated 18 November 2010.
2. On investigation I have discovered that DN3 related to another complainant, not Mr Bhamjee. Therefore he would appear to have no standing in relation to this matter and cannot bring an appeal.
3. On the 8 December the Tribunal sent a letter to Mr Bhamjee as follows:

We are in receipt of three appeals from you in relation three Decision Notices issued by the Information Commissioner dated 12 August 2009 (1), 24 August 2009 (2) and 19 October 2009 (3). A judge has seen your appeals and asks for clarification of the following matters:

- a. Following the making of a Vexatious Litigant Order (VLO) against you on 8 December 2003 by Mr Justice Warren in the High Court relating to civil litigation do you have the High Court's permission to proceed with these appeals? If so can you please provide us with copies of any order or ruling.
- b. It is noted that the appeals against Decision Notices 1 and 2 are made by you and Mrs Bhamjee. Did Mrs Bhamjee make the FOI requests jointly with you and did she also jointly complain to the Information Commissioner about the public authorities'

- c. It is noted that there is some confusion in the Notice of Appeals against Decision Notices 1 and 2. One Notice dated 15 November 2010 refers to both Decision Notices. The other, also dated 15 November 2010, only relates to Decision Notice 2. Perhaps you could clarify whether the first appeal should only relate to Decision Notice 1?
  - d. Both Notices of Appeal appear to be signed with a signature, which is presumably yours, and in caps "S. BHAMJEE". The latter does not appear to be a signature but the printing of your wife's name. Can you please provide proof that this is your wife's signature? We would mention that if she was not an original complainant to the Information Commissioner she will not be able to appeal to the Tribunal, although could apply to be joined if the appeals are accepted. If she was not an original complainant there is no need to prove your wife's signature.
  - e. It is noted all your appeals are well out of time. The judge has read your reasons for the late appeals but these do not explain why you delayed beyond the 28 day time limit. The judge would like to give you a further opportunity to provide reasons for the delay, for example, did you apply for the VLO to be lifted so as to bring these proceedings and have been waiting for an answer.
  - f. The judge observes that your grounds of appeal do not set out in what ways you consider the Information Commissioner's decisions were wrong and why you disagree with them. Please could you provide suitable grounds of appeal for each Decision Notice separately
4. On 11 December he responded by sending a letter with reference to various statutes, court decisions, news reports and other documents which appear to have nothing to do with his appeals. The only matter which has some relevance is the fact that he corrected the name of the judge who made the Vexatious Litigant Order ("VLO") against him. It was Mr Justice Jackson and not Mr Justice Warren.
  5. Otherwise there was no attempt to answer any of the above questions directly.
  6. As a result the Tribunal gave him another opportunity to respond properly and received faxes on 15 and 20 December 2010 which again did not address the matters raised by the Tribunal.
  7. In relation to DN1 and DN2 I have discovered that only Mr Bhamjee is the complainant and therefore Mrs Bhamjee has no standing at this stage in the proceedings. I accept that if the appeals are allowed to proceed the Tribunal has power to add Mrs Bhamjee as a party.
  8. In relation to his responses to the Tribunal the only evidence he provided that he had applied for permission to bring proceedings before, what was then known as the Information Tribunal, was a ruling by Mr Justice Warren in the High Court dated 19 November 2009. The ruling refers to Decision Notices issued by the Information Commissioner dated 24 October 2005 and 25 March 2009 and therefore not the Decision Notices the subject of his appeals here. In the ruling Mr Justice Warren noted that "I cannot be certain that the Information Tribunal is a 'court' within the scope of section 42 Senior Courts Act 1981 and thus within the scope of the civil proceedings order to which he is subject. However it seems highly likely that the Information Tribunal is a

court in relation to Mr Bhamjee's intended application: see *Re Ewing [2002] EWHC 3169*." The judge refused the application.

9. The Tribunal has checked with the High Court and has discovered that the only recent application to the court was to bring a claim for judicial review against the Information Commissioner and others and that was refused by Mrs Justice Dobbs on 18 March 2010.
10. In my view Mr Bhamjee is very likely to require consent to bring these proceedings. There is no evidence of even an application being made to have the order lifted for these actions, let alone consent being given.
11. In note in Mr Justice Warren's ruling where he was also dealing with a possible appeal to be made by Mrs Bhamjee and their two children that the judge commented "that, although Mrs Bhamjee can make her own application without the need for consent from this Court, it will be for the Information Tribunal to decide whether the application is really one made by Mr Bhamjee using his wife's name to circumvent the civil proceedings order against him."
12. Even if I am wrong and he does not need permission to bring these appeals, the Notices of Appeal are out of time. It is not clear from the Notices what reasons Mr Bhamjee is giving for lodging the appeals approximately 12 months beyond the period allowed to make an appeal.
13. The FTT's powers to deal with out of time applications can be found in the Tribunal Procedure (First-tier Tribunal)(General Regulatory Chamber) Rules 2009 as amended ("the 2009 Rules"). Rule 22(4) states that
  - "if the appellant provides the notice of appeal to the Tribunal later than the time required by paragraph (1) or by any extension of time under rule 5(3)(a) (power to extend time) –
    - (a) the notice of appeal must include a request for an extension of time and the reason why the notice of appeal was not provided in time: and
    - (b) unless the Tribunal extends time for the notice of appeal under rule 5(3)(a) (power to extend time) the Tribunal must not admit the notice of appeal."
14. Under paragraph (1) "the appellant must start proceedings before the Tribunal by sending or delivering to the Tribunal a notice of appeal so that it is received –
  - (b) ...within 28 days of the date on which notice of the act or decision to which the proceedings relate was sent to the appellant."
15. The Tribunal is given case management powers under rule 5. Under rule 5(3)(a) "...the Tribunal may ...extend or shorten the time for complying with any rule ..., unless such extension or shortening would conflict with a provision of another enactment containing a time limit."
16. The Tribunal's discretion under rule 22(4) to accept out of time claims provided there is a satisfactory reason must be considered in the light of the overriding objective of enabling the Tribunal to deal with cases fairly and justly

under rule 2. Rule 2(2) provides examples of how the Tribunal can deal with cases fairly and justly. None of these appear to relate to out of time applications as such. However in my view that does not restrict the Tribunal from considering the overall objective when exercising its powers under rules 22 and 5.

17. Parliament has laid down time limits for appealing in order that they are complied with. There clearly needs to be a good reason for allowing a late appeal and if there is the appellant has to demonstrate that he acted with reasonable expedition once the time limit had expired.
18. Mr Bhamjee has provided no intelligible reason for the late appeals despite being given the opportunity in the Notice of Appeal form and twice subsequently. Also he has not provided grounds of appeal where it is possible to identify what he relies on for considering that the Information Commissioner's decisions were wrong.
19. Therefore I strike the appeals out under rule 8(2) because the Tribunal is unlikely to have the right to hear the appeals because the VLO has not been lifted to bring these appeals. Even if I am wrong, I strike the appeals out because they are out of time and/or there is no reasonable prospect of the appeals succeeding.
20. This decision can be appealed to the Upper Tribunal. A person seeking permission to appeal must first make a written application to the Tribunal for permission to appeal within 28 days of the date of this decision. Such an application must identify the error or errors of law in the decision and state the result the party is seeking. Relevant forms and guidance for making an application can be found on the Tribunal's website at [www.informationtribunal.gov.com](http://www.informationtribunal.gov.com)

**Signed:**

**John Angel  
Principal Judge  
FTT (IR)**

**22 December 2010**