



**IN THE MATTER OF AN APPEAL TO THE FIRST-TIER TRIBUNAL
GENERAL REGULATORY CHAMBER
INFORMATION RIGHTS**

Appeal No: EA/2011/0063

BETWEEN:

MARIA KOLETTI

Appellant

and

THE INFORMATION COMMISSIONER

Respondent

RULING

RULING in relation to...

The Information Commissioner's

Decision Notice No: FS50321319

Dated: 9 February 2011

1. The Information Commissioner (IC) in his response dated 5 April 2011 ("the Response") to the Notice of Appeal dated 7 March 2011 applies for the appeal to be struck out because, in his view, it has no reasonable prospect of success.
2. Under rule 8(3) of the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009 "the Tribunal may strike out the whole or part of the proceedings if(c) the Tribunal consider there is no reasonable prospect of the appellant's case, or part of it, succeeding.". Under rule 8(4) "the Tribunal may not strike out the whole or part of the proceedings under paragraph (c) without first giving the appellant an opportunity to make representations in relation to the proposed strike out."

3. The Tribunal indicated to the Appellant that the application appeared to have merit and gave her the opportunity to make representations in reply to the Response which she did on 18 April 2011.
4. The background to the appeal is set out clearly in the Response and the Appellant largely does not challenge this. Briefly the appeal concerns a request for information made to the University of York (“the University”) for information concerning a degree it had awarded to a person we shall call “X”. It is understood X is or was an Associate Professor at the Ionian University in Corfu. X was a member of an electorate committee which assessed the Appellant’s candidacy for an assistant professorship and it is understood that there is or were pending civil proceedings concerning X’s involvement in that committee. The Appellant doubts the qualifications on which X secured the appointment as Associate Professor. The Appellant had obtained a copy of the degree certificate awarded to X which is apparently dated 10 July 2002. However the Appellant doubts its authenticity.
5. There was much correspondence between the Appellant and University and eventually the Appellant made the following FOI request on 1 July 2010:

‘...whether York University conferred any D.Phil in Music degrees on July 10, 2002, and if so to whom?’

(“the Request”)

6. The University replied on 22 July 2010 referring to its previous correspondence and confirmed that –

“.. the degree of Doctor of Philosophy in Music was awarded by the University of York to [X] on 24 June 2002 in York. In relation to the date on the certificate, the Registrar confirmed that he ‘would not regard a difference of one day as in any way significant’. I also believe that confirmation of the dates and details for the award of the degree have previously been supplied by the University’s Examinations office. I therefore understand that the University has

no reason to question the award of the degree or the certificate.”

7. The Commissioner wrote to the Appellant on 25 June 2010. He informed her that “FOIA does not confer any rights to receive actual documents, or copies of documents, nor is there any requirement that any copies which might be supplied need be certified or otherwise endorsed”. The Commissioner explained that it appeared that the University had provided the information it held in response to the Appellant’s request.
8. On 3 August 2010 the Appellant wrote again to the Commissioner. She stated that “York University is still unwilling to answer the basic question when put to them Is the degree in question authentic or not? Did York University issue the degree in question?”
9. The Commissioner replied to the Appellant on 24 August 2010. The Commissioner explained that the Appellant appeared to seeking to resolve two issues; (i) whether the certificate in her possession was authentic and (ii) whether the degree had been issued by the University. In relation to (i) the Commissioner explained that this was not a valid request for recorded information under FOIA but rather a challenge to the authenticity of a document. As to (ii) the Commissioner explained that the University had provided the information requested.
10. The Appellant in her representations replying to the IC’s application to strike out stated as follows:

“I would like to clarify a few points that have been made in the above mentioned document [the Response]. Firstly, although I was admittedly, originally, trying to ascertain the authenticity of a certificate in my possession, from what I gathered, York University is not obliged under the Freedom of Information Act to give an opinion, or verification of any kind, regarding the authenticity.

*From this point on, the verification of authenticity of the certificate was no longer the issue on hand, nor do I have any queries regarding this matter. I am actually quite convinced that the document concerned is **not at all genuine** from a number of facts, and chiefly because as I was informed, on the 8th of July 2010, “this information (is) recorded in the graduation booklet for the July 2002 ceremonies”. Also, further correspondence*

*divulged that it can be confirmed that “the graduation booklet is an accurate record and that **no music students graduated as part of the ceremonies held on 10 July 2002**”.*

*The fact now remains, that obviously **someone** issued the certificate that I have in my possession which verifies a fact that never occurred. Specifically, the certificate **falsely states** that a degree in music was conferred on July 10th, 2002 at held at York University.*

*The question is simple and uncomplicated as I have said in the past. Did York University issue this particular certificate? **Opinions**, regarding the **importance** of the discrepancies between the certificate and the true facts, are unnecessary and are of no concern to me. I would appreciate if they were **not used in an attempt to confuse the issue on hand.**”*

11. This submission accepts the IC’s contention that a valid request for recorded information under FOIA cannot include a challenge to the authenticity of a document.
12. However the Request which we are concerned with is ‘...whether York University conferred any D.Phil in Music degrees on July 10, 2002, and if so to whom?’
13. The University has, in effect, answered “yes” and provided the information.
14. The Appellant now asks a different question from the Request. She asks whether the certificate in her possession was issued by the University.
15. In my view this is a different request and the Tribunal is not obliged to deal with the matter. If the Appellant wishes to make such a request then she should make a new request to the University.
16. However even if I am wrong, it would seem to me, on the basis of the papers before me, that the University has provided information which clearly confirms that a D.Phil degree in Music was awarded to X in 2002. If the Appellant through a new request is seeking to establish whether a document in her possession is genuine then it would appear that ultimately this is not something that the Tribunal has power to deal with, and the Appellant would need to seek a remedy elsewhere.

17. For these reasons I find that the Appellant has no reasonable prospect of succeeding before this Tribunal and I strike out the appeal.

John Angel
Principal Judge

Date: 26 April 2011



**IN THE MATTER OF AN APPEAL TO THE FIRST-TIER TRIBUNAL
(INFORMATION RIGHTS)
GENERAL REGULATORY CHAMBER**

Appeal No: EA/2011/0063

BETWEEN:

MARIA KOLETTI

Appellant

and

THE INFORMATION COMMISSIONER

Respondent

DECISION ON APPLICATION FOR PERMISSION TO APPEAL

1. On 26 April 2011 I struck out Ms Koletti's appeal because in my view it had no reasonable prospect of success.
2. Ms Koletti now appeals against that ruling by application dated 24 May 2011.
3. The grounds in her application are as follows:

"I believe that the decision is misdirected in the facts, and specifically in paragraph 13, that the University has answered "yes" and provided the facts. In fact, they answered that no one was conferred on July 10th, 2002, according to their graduation booklet, and that it was to be considered an accurate record.

Consequently, they provided information about Ms. Caldis graduating on the following day, with a DPhil degree, stating that they do not consider one day difference to be significant. That is an opinion, which I disagree with in any case for several reasons which are not relevant at this point, as their opinion on the matter is not what is being sought. The outcome that I am seeking, is for York University to claim whether they issued a degree, stating that Ms. Caldis was conferred on July 10th, 2002, with a DPhil degree in music, having established that this information is not in accordance with their records. I am attaching past correspondence, so that the matter can be clear."

4. What the ruling stated was that the University had "in effect" answered yes and that it had provided the information to explain this, some of which is included in the application for permission to appeal.

5. Under rule 44 of The Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009 (as amended) (“the Rules”), the Tribunal may undertake a review of a decision if (a) it has received an application for permission to appeal and (b) it is satisfied there is an error of law in the original decision.
6. I have considered whether Ms Kolletti’s grounds of appeal identify an error of law in the First-tier Tribunal’s ruling. Whilst it is clear that she disagrees with part of the ruling, it does not seem to me that she has raised any points of law. I conclude, therefore, that there is no power to review the decision in this case.
7. It remains for me to consider whether permission to appeal to the Upper Tribunal should be granted. Having considered the grounds of appeal carefully, I have come to the conclusion that they do not identify an error of law in the ruling of 26 April, as required by rule 42(5)(g) of the Rules. In the circumstances, permission to appeal is also refused.

Signed:

Dated: 31 May 2011

**John Angel
Principal Judge**