

**Tribunal Procedure (First Tier Tribunal) (General Regulatory Chamber)  
Rules 2009:**

Late appeals – rules 22(4) and 5(3)(a).

***PROFESSOR SIKKA v INFORMATION COMMISSIONER***

**Case Number: EA/2010/0054**

**9 April 2010**

**Facts**

The appellant requested HM Treasury to supply him with a copy of the Sandstrom report into the collapse of BCCI on 6 March 2006. The request was refused and that refusal was upheld on internal review but not until 13 March 2008. The appellant complained to the Commissioner on 16 May 2008 and he issued a decision notice on 14 December 2009. The notice did not come to the attention of the appellant until 18 January 2010 since it was delivered to his academic address and the Christmas holidays intervened. Having reflected he contacted the Tribunal on 25 February 2010 for advice and then lodged a notice of appeal which was 39 days out of time. The notice of appeal included an application for an extension of time under rule 22(4)(a).

**Findings**

(1) The Tribunal ruled that he should have an extension of time; particular relevant factors in this case were:

- (a) the long delay between the request for information and the decision notice
- (b) the fact that the appellant only received the decision notice on 18 January 2010
- (c) the fact that the appellant was unrepresented and unfamiliar with the process and wanted to fill in the notice of appeal fully and properly before lodging it and in fact did so
- (d) the high level of public interest in the requested information.

(2) The Tribunal observed that the 2009 Rules do not limit the circumstances in which an extension of time can be granted and allow much more flexibility than the 2005 rules did; in particular, it is possible to apply for an extension of time under rule 5(2)(a) before lodging the notice of appeal and this is a recommended course if a potential appellant considers that he needs more time to consider whether to appeal. The Tribunal also drew attention to factors which are likely to be relevant when considering an application for an extension of time:

- (a) the lateness of the application
- (b) the extent of compliance with rule 22(4)(a)
- (c) the date the appellant received the decision notice
- (d) whether there were reasons for the delay beyond the control of the appellant
- (e) the complexity of the decision being appealed
- (f) the fact that the appellant is unrepresented and unfamiliar with the process
- (g) the fact the appellant made enquiries before appealing
- (h) the public interest in the disputed information.