



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

Appeal No: EA/2015/0053

ON APPEAL FROM:

**The Information Commissioner's Decision Notice No: FS50561738
Dated: 5 February 2015**

Appellant: John Timbrell

Respondent: The Information Commissioner

**Heard on the papers: Field House, Breams Buildings, Chancery Lane,
London**

Date of Hearing: 21 May 2015

Before

Chris Hughes

Judge

and

Suzanne Cosgrave and David Wilkinson

Tribunal Members

Date of Decision: 16/06/2015

Subject matter:

Freedom of Information Act 2000 s58

DECISION OF THE FIRST-TIER TRIBUNAL

The Tribunal upholds the decision notice dated 5 February 2015 and dismisses the appeal.

REASONS FOR DECISION

Introduction

1. In his appeal to this tribunal Mr Timbrell indicates that he has been denied access to “the common law court of record” at a court in Gloucester and at the Royal Courts of Justice. He asserts that his attempt to require a High Court Master to grant him access to the “common law Queens Bench court of record” has been blocked. He indicates that for his information about the courts in the UK he is relying on Black’s Law Dictionary – a well-known American legal publication. He indicated that the purpose of the first part of his request was “to get either the Ministry of Justice or Master Leslie to acknowledge that the court exists so that I could proceed with my case at common law”.

2. The request which is the subject of this appeal was made on 19 August 2014:-

“Please advise under the Freedom of Information Act if Master Leslie has given instruction to his staff to tell people wishing to make a claim in the Queens Bench common law court of record that it does not exist or is unavailable.

If the court does exist please advise the correct procedure to access the court in the district courts. At present these courts refuse access.”

3. The request was sent to an e-mail address used in connection with the judiciary at the Royal Courts of Justice. Following a complaint to the

Information Commissioner a court official responded to Mr Timbrell on 5 December 2014:-

"I have checked with my team and no record can be found of any specific direction from Mr Leslie. That said it would appear that your letter may have been caught up with several other similar queries we had which due to the repetitive nature of some of them were ignored after the first request.

If it was the case, as it appears, that we did not respond at all to your query, please accept my apologies.

Reference to a "Queens Bench common law court of record" is incorrect terminology and I refer you two links below – one attaching specifically the latest QB guide to the working practices within the RCJ; and the second the main general justice.gov link to which you can find details of other courts and the justification, for example, of why fees are required for all applications"

4. At that stage therefore, for all practical purposes, the request had been answered – the civil servant had checked and been unable to find a direction from the Master, the reply had then guided Mr Timbrell to the relevant sources for the information he sought.
5. The MoJ in its internal review concluded that the request was not a valid request for information under FOIA because the first part could be answered as a simple yes/no and was not a request for recorded information and the second part – seeking confirmation of court procedure, could be given out as a "business as usual response" – in other words the information was readily available by directing Mr Timbrell to a relevant web address where the information was available.
6. Mr Timbrell pursued his complaint to the Information Commissioner who, having carried out an investigation, concluded that the MoJ analysis of the position was correct. The MoJ had provided appropriate assistance to Mr Timbrell under s16 FOIA *"in that it responded to the first question and confirmed that incorrect terminology in respect of the latter question had been used, providing web links in an effort to assist the complainant."* (dn paragraph 24).

7. In his reply to the appeal the Information Commissioner re-affirmed his position. In his reply to this Mr Timbrell disputed that the information is available “in the normal course of business.”

Consideration

8. The question was raised by the ICO in his DN paras 20 and 23 about the validity or otherwise of the elements of this request. The Tribunal has considered the same questions i.e. are each of the two questions a valid request or not and has reached the same conclusions that even if as drafted there is some doubt about their validity the official at the MoJ interpreted them widely and in doing so used his best endeavours to remedy their defects and to answer them by providing assistance to the Appellant.
9. Mr Timbrell is convinced that he is being denied his rights. In an e-mail response to the civil servant who clearly set out the position on 5 December Mr Timbrell wrote:-

“The common law courts of record are free to all men. There are no charges to use common law courts. You are trying to force me on the admin side of the court which are commercial concerns.”
10. In essence he considers that there is available to him a means of applying to the courts for whatever redress he is seeking for which he will not have to pay a court fee. As far as may be discerned he bases this on references to Magna Carta and a reading of an American legal text. This appeal is therefore an appeal against the Information Commissioner’s decision notice under s58(1) of FOIA motivated by a belief that the factual basis upon which the e-mail to him of 5 December was drafted (and which was accepted by the Information Commissioner) is incorrect – he is implicitly inviting the tribunal, under s58(2) to review the factual basis for this decision. He has not, however, produced any evidence which could lead to tribunal to conclude that the factual basis of the decision is incorrect.
11. Mr Timbrell has not convinced the Tribunal there is a rational basis for his belief. The e-mail of 5 December correctly drew his attention to the published procedures of the courts – these procedures are the only available procedures and relate to the only available court. Mr Timbrell is relying on a

misinterpretation of a legal text written for an American market where the interest in the English legal system is historical (as the source of American legal thinking) and which is unlikely to address the evolution of the English legal system in the 239 years since American independence. Whilst it is a reputed legal reference text on American law we consider it does not, and could not, provide advice on current English Court practice superior to that to be found within the current Queen's Bench Guide, A Guide to the Working Practices of the Queen's Bench Division published in May 2014 by the Queen's Bench Division and to which the Appellant was directed

Conclusion and remedy

12. The tribunal is therefore satisfied that the Information Commissioner came to the only possible conclusion and dismisses the appeal.
13. Our decision is unanimous

Judge Hughes

[Signed on original]

Date: 16/06/2015