



NCN: [2023] UKFTT 00220 (GRC)

Case Reference: EA/ 2022/0363

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

Heard: by determination on the papers

Heard on: 28 February 2023

Decision given on: 28 February 2023

Before:
Judge Alison McKenna

LIAM HARRON

Appellant

- and –

THE INFORMATION COMMISSIONER

**First
Respondent**

-and-

ROTHERHAM METROPOLITAN BOROUGH COUNCIL

**Second
Respondent**

DECISION

**This appeal is struck out under rule 8 (2) (a) as the Tribunal has no
jurisdiction to determine it.**

REASONS

1. The Second Respondent's Strike Out Application dated 29 December 2022 is allowed.
2. The Appellant made an information request for an attachment to an email previously sent to him. The Information Commissioner published his Decision Notice on 19 October 2022, in which he found that the Council had already provided the information held and that no further information within the scope of the request was held.
3. The Appellant filed a Notice of Appeal on 14 November 2022. The Appellant's Grounds of Appeal are that the ICO caseworker's reasoning is deeply flawed by not taking into account what he wrote and that he hopes the Information Commissioner will review the Decision Notice with minimal involvement of the Tribunal.
4. On 11 January 2023, the Information Commissioner, in filing its Response to the appeal, applied for a strike out under rule 8 (3)(c) of the Tribunal's rules on the basis that the appeal had no reasonable prospects of success.
5. On 29 December 2022, the Council, in filing its Response to the appeal, applied for a strike out under rule 8 (3)(c) or under rule 8 (2) (a) for want of jurisdiction. It submitted that the grounds of appeal failed to engage the statutory jurisdiction of the Tribunal.
6. The Appellant was invited to make submissions in response to the proposed strike out, as required by rule 8 (4). On 24 January 2023, the Appellant submitted that the Information Commissioner has failed adequately to scrutinise RMBC's actions, so it now falls to the FtT to act decisively and move to a hearing.
7. I have considered all parties' representations and concluded that the grounds of appeal in this case do not engage the Tribunal's statutory jurisdiction under s. 57 and 58 FOIA. They do not allege that the Decision Notice is wrong in law in any respect or that it involved an inappropriate exercise of discretion. Indeed, they ask the Information Commissioner to review the Decision Notice rather than asking the Tribunal to set it aside and make a substituted decision. Having regard to the Tribunal's powers under s. 58 FOIA, I conclude that the Appellant has asked for a remedy which the Tribunal may not provide.
8. It does not therefore seem to me that the Tribunal has jurisdiction to determine this appeal. In such circumstances, a strike out is mandatory. I now direct a strike out accordingly.

(Signed)
Judge Alison McKenna

Dated: 28 February 2023

© CROWN COPYRIGHT 2023

