



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

Appeal No: EA/2012/0131

ON APPEAL FROM:

**The Information Commissioner's Decision Notice No: FS50432122, FS50435916,
FS435920, FS5043926**

Dated: 13 June 2012

Appellant: Michael Foy

Respondent: The Information Commissioner

Strike out ruling under Rule 8

Before
Christopher Hughes
Judge

Date of Decision: 10 October 2013

Subject matter:

Freedom of Information Act 2000

The Tribunal Procedure (First-Tier Tribunal) (General Regulatory Chamber) Rules 2009

S.I. 2009 No. 1976 (L.20)

Cases:

GIA/952/2012 Foy v ICO Application for permission to appeal PTA

DECISION OF THE FIRST-TIER TRIBUNAL

The Tribunal upholds the decision notice dated 13 June 2012 and dismisses the appeal.

Dated this 28th day of September 2013

Judge Christopher Hughes

[Signed on original]

REASONS FOR DECISION

Introduction

1. The Information Commissioner made his decision in this case on 13 June 2012; Mr Foy appealed this promptly and I received this case on 25 June 2012. Consideration of this appeal has been delayed pending the resolution of other cases before the Upper Tribunal and I apologise for any avoidable delay.
2. In coming to his decision in this case the Information Commissioner relied on his reasoning in previous cases relating to Mr Foy FS50400972; FS50397482. These also related to the subject matter of the appeal under consideration. Mr Foy had appealed against these decisions of the Information Commissioner and on 21 February 2012 I struck out the appeal under Rule 8 of the Tribunal Rules. Mr Foy appealed against this and the Upper Tribunal on 2 May 2012 stayed the application for permission to appeal against my decision pending the resolution by the Upper Tribunal of cases relating to issues raised by his appeal to the Upper Tribunal.
3. The Upper Tribunal in an oral hearing considered Mr Foy's application for permission to appeal against my decision of 21 February 2012 and on 16 July 2013 concluded that there was no error in law in the decision of 21 February 2012 and therefore the Upper Tribunal had to dismiss the appeal.
4. In the light of this decision Mr Foy was invited to make submissions as to why his appeal should not be struck out on 2 August. That request was repeated on 27 August; however no submissions were received. I have therefore considered this case in the light of the statement of appeal and the previous decisions referred to above.
5. In his appeal Mr Foy asserts that he is being treated as a vexatious campaigner and his four requests are different from the previous request and have not been treated on their merits and the Commissioner in his decision notice is in breach of the fundamental provisions of FOIA. In the supporting documents he has sent copies of e-mails entering into the merits of the underlying argument he has with the relevant public body, including making the allegation that contractor's staff masquerade as council officers.

6. In his Decision Notice the Commissioner listed three of the requests – which all related to parking, one of which claimed certain behaviour was “cynical”, the second requested replies to 10 other requests (two of which were the subject of the litigation before the Tribunal referred to above), the third and fourth referred to contractor staff “masquerading” as council employees. The Commissioner considered that these requests reflected a continuation of the previous requests, adopted the reasoning of the previous decision notice and found the requests vexatious. He also drew attention to the provisions of S17 FOIA and concluded that since the Council was relying on S14FOIA that the requests were vexatious, had already given Mr Foy notice that he had made vexatious requests, by reason of S17(6) in the circumstances it would be unreasonable to require the public authority to serve a further notice on Mr Foy to that effect. He also applied S50(2)(c) and given the history of vexatious applications indicated that in future he would consider whether or not to exercise his own discretion in the future faced with similar applications and refuse to make a decision on complaints from Mr Foy.
7. In his four requests to the public authority Mr Foy has repeated requests, made further requests on the same themes and making the same allegations. In his appeal he has continued with that approach. He has not advanced any valid reason in law why his appeal to the Tribunal should succeed. The Commissioner with admirable brevity has correctly identified the legal issues, appropriately relied on his previous reasoning and come to the only correct conclusion. A vexatious request such as this is an abuse of a statutory right to information. It is a waste of public resources for the public authority and the Commissioner. I strike out this appeal as having no reasonable prospect of success.

Judge Hughes

[Signed on original]

Date: 10 October 2013