



**FIRST-TIER TRIBUNAL  
GENERAL REGULATORY CHAMBER  
Information Rights**

**Tribunal Reference:** EA/2014/0018  
**Appellant:** Alan Dransfield  
**Respondent:** The Information Commissioner  
**Judge:** NJ Warren

**DECISION NOTICE**

1. This appeal is struck out because it has no reasonable prospect of success.
2. On 22 June 2013 Mr Dransfield wrote to the House of Lords asking for lightning test results for the past five years; drawings for the current lightning protection system and a lightning risk assessment report.
3. The House of Lords, having edited a small amount of personal data, sent Mr Dransfield the first two items requested. They also sent other material including risk assessment and method statements.
4. Mr Dransfield complained that these latter were not the lightning risk assessment which he had requested. The House of Lords told Mr Dransfield that they held no further information and he then complained to the Information Commissioner (ICO) who made an investigation. The House of Lords told the ICO that there is no specific risk assessment for lightning. Mr Dransfield contended that such an assessment was a legal requirement. The House of Lords contend that there is no such legal requirement in respect of a building of its age and that its practices comply with the law.
5. The ICO decided that the House of Lords did not hold the third item of information requested. Mr Dransfield has appealed to the Tribunal against the ICO decision.
6. Mr Dransfield has requested a hearing of his appeal; has requested a direction that the House of Lords lightning protection experts should attend the hearing; and has alternatively suggested that to enable the Tribunal to reach a proportionate decision

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it will be necessary to obtain expertise, perhaps from America, in respect of lightning.

7. The ICO has asked for the appeal to be struck out on the ground that it has no reasonable prospect of success.
8. Neither the ICO nor the Tribunal accepts, without more, an assertion by a public authority that it does not hold information that has been requested. On occasion, if the absence of the information appears extraordinary or incredible the Tribunal may require sworn evidence to justify such a claim.
9. One such set of circumstances might be where the public authority has a legal duty to hold the information. Here, however, there is a dispute between Mr Dransfield and the House of Lords as to whether such a legal duty exists. Given the House of Lords bona fide contention that it is not in breach of the relevant regulations by not holding the information, no inference that the denial is a surprising one can be drawn.
10. I have no doubt that in the light of the careful replies given by House of Lords officials to Mr Dransfield and to the ICO a Tribunal will conclude that there is no fault in the ICO investigation and that the House of Lords does not hold the final piece of information requested. In these circumstances, it seems to me that it would be an injustice to the ICO for me to allow the appeal to continue and it is right for me to bring it to an end now.
11. The appeal is struck out on the ground that it has no reasonable prospect of success. In my judgement it is inevitable that a Tribunal would accept that the ICO decision notice is correct.
12. I have considered the further submission received from Mr Dransfield dated 27 February in which he renews allegations of “flagrant wilful blindness” and “criminal negligence” against the House of Lords. It is not the Tribunal’s function to give rulings on the law of crime, negligence or health and safety.

**NJ Warren**

**Chamber President**

**Dated 28 February 2014**

**Promulgation Date 6 March 2014**