



**First-tier Tribunal  
(General Regulatory Chamber)**

**Appeal Reference: EA/2021/0278/GDPR**

**INFORMATION RIGHTS**

**Before**

**REGISTRAR SUNNY BAMAWO**

**Between**

**BRIGHT JEMWA**

Appellant

**and**

**INFORMATION COMMISSIONER**

Respondent

**DECISION AND REASONS**

Background

1. The Applicant made a complaint to the Information Commissioner ('IC') on 20 April 2021 in relation to Expert Associates Limited.
2. On 29 April 2021 an IC case officer telephoned the Applicant stating he would confirm the outcome of the complaint. The outcome was conveyed to the Applicant on 07 May 2021.
3. On 05 August 2021, the Applicant stated he was dissatisfied with the outcome and sought a review from the Information Commissioner.
4. On 13 August 2021, the Information Commissioner notified the Applicant that the matter had been passed on for review.
5. On 02 September 2021, the Applicant was notified that a review had been conducted and the complaint had been dealt with appropriately; and that there were no outstanding matters to pursue. The Applicant was further advised that Premex were the data controllers and concerns should be directed to them.

Appellant: Bright Jemwa

Date: 22 November 2021

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6. In communications on 02 and 13 September 2021, the Applicant disputed the contents of a telephone call to the IC case officer on 29 April 2021 and that he intended to pursue matters with the Parliamentary and Health Service Ombudsman.
7. On 22 September 2021, the Information Commissioner confirmed to the Applicant that the case review was the final stage and that the matter of the contents of the note of the phone call had been referred to the Information Access team.
8. On 28 September 2021, the Applicant made an application under section 165 of the Data Protection Act 2018 to this Tribunal.
9. On 01 November 2021, the Information Commissioner responded making an application for the matter to be struck out under Rule 8(3)(c), The Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009, as the matter having no reasonable prospect of succeeding.
10. In pursuance of GRC Rule 8(4), the Appellant replied objecting to the application and outlining a 9-stage test this Tribunal should [conduct] in considering the application.

#### The Law

11. s166 Data Protection Act 2018 : Orders to progress complaints

*(1) This section applies where, after a data subject makes a complaint under section 165 or Article 77 of the [UK GDPR], the Commissioner –*

*(a) fails to take appropriate steps to respond to the complaint,*

*(b) fails to provide the complainant with information about progress on the complaint, or of the outcome of the complaint, before the end of the period of 3 months beginning when the Commissioner received the complaint, or*

*(c) if the Commissioner's consideration of the complaint is not concluded during that period, fails to provide the complainant with such information during a subsequent period of 3 months.*

*(2) The Tribunal may, on an application by the data subject, make an order requiring the Commissioner –*

*(a) to take appropriate steps to respond to the complaint, or*

*(b) to inform the complainant of progress on the complaint, or of the outcome of the complaint, within a period specified in the order.*

*(3) An order under subsection (2)(a) may require the Commissioner –*

Appellant: Bright Jemwa

Date: 22 November 2021

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*(a) to take steps specified in the order;*

*(b) to conclude an investigation, or take a specified step, within a period specified in the order.*

Consideration

12. The power of this Tribunal is confined to section 162 of the Data Protection Act 2018; that is to say, to make an order requiring the Information Commissioner to take appropriate steps to respond to a complaint or inform the complainant of the outcome of the complaint.
13. This Tribunal has no power to direct the Information Commissioner as to the extent of any investigation or the outcome the Information Commissioner should come to.
14. The Tribunal has no supervisory role over the Information Commissioner. Where a person is dissatisfied with the conduct of the Information Commissioner then the matter should be raised with the Parliamentary and Health Service Ombudsman.
15. A person who wants the data controller (or processor) to rectify personal data or otherwise properly comply with the Data Protection Act 2018 or General Data Protection Regulations ("GDPR") about holding personal data must still go to the High Court or a county court – per section 180 of the Data Protection Act 2018.

Decision and Reasons

16. The Applicant fails to establish any basis in law that requires this Tribunal to conduct the '9-stage test' he outlines in his reply to the Information Commissioner's application to strike out the matter. Indeed, I find there is no such requirement.
17. I have considered the '11 main facts' and explanation put forward by the Applicant in support of the 9-stage test and why the matter should not be struck out. As I have stated, there is no such requirement on the Tribunal to conduct the 9-stage test proposed by the Applicant.
18. I note the outcome sought by the Applicant in the Notice of Appeal form; this can be summarised as the Applicant requiring a rectification of his personal data, a matter which is not within the remit of this Tribunal.
19. Finally, the power of this Tribunal is to order the Information Commissioner to progress the complaint of the Applicant. I note that Information Commissioner has investigated the complainant and provided the Applicant with the outcome,

Appellant: Bright Jemwa

Date: 22 November 2021

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it is the outcome that the Applicant is not satisfied with. As I have stated earlier (paragraph 13), this Tribunal has no power to direct what outcome the Information Commissioner should come to. In the circumstances there is no order this Tribunal can make.

20. For the reasons given I strike out this matter in accordance with GRC Rule 8(3)(c) as having no reasonable prospect of succeeding.

Signed *Mr S Bamawo*

Registrar of the First-tier Tribunal General  
Regulatory Chamber

Date: 22 November 2021

*This decision was made by the Tribunal Registrar. A party is entitled to apply in writing within 14 calendar days of the date this document is sent for this decision to be considered afresh. If you apply later than 14 days, you must explain why you are late.*