



**In the First-tier Tribunal
(General Regulatory Chamber)**
Information Rights

Before: **Judge J Findlay**

Applicant: **Peter Dennis**

Respondent: Information Commissioner

Upon the application by Peter Dennis for permission to appeal the Decision made on 24 July 2023 and sent to the parties on 7 August 2023 (“the Decision”)

Permission to appeal is refused

REASONS

1. I decided on 24 July 2023 to grant the Respondent’s application to strike out the appeal on the grounds that there was no reasonable prospect of the appeal succeeding.
2. The Applicant has applied for permission to appeal on the following grounds;
 - a) There is a factual inaccuracy and error of law in the decision.
 - b) The information and evidence referred to by the Applicant in his email of 26 May 2023 were not considered and taken into account. In particular, in a similar Freedom of Information Act 2000 (“FOIA”) request to Cambridge House Grammar School (“CHGS”) an email response shows an email dated 10 September 2020 from the Chair of the Board of Governors of CHGS asking specific school staff for an expression of interest in the acting principal post. The email was cc’d to Phil Stewart, the Education Authority (“EA”) HR Officer. This email was not provided to the Applicant and shows that the EA search was wholly inadequate, the information should exist and this may be maladministration or a section 77 FOIA offence by the EA.
 - c) This information was not referred to by the Applicant in his appeal as was not available to him at that time.
 - d) The decision to strike out the appeal makes no reference to point 2 of the email of 26 May 2023.
3. The Applicant wrote to the EA on 17 February 2021 and requested information in a multi-part request. The Applicant’s complaint to the Commissioner was limited to part 7 of the multi-part request and was as follows:

“You have trawled through 18 months of minutes of governors meetings (at point 3 above) yet you state that you don't hold minutes of the most senior appointment in a school. Again, I find this astounding. If the minutes are not stored in your office/electronically, I request that you retrieve them from the school while maintaining my anonymity. Therefore, I request again:

In relation to the very recent post of acting principal as per my letter dated 26 November 2020, please provide me with the following information:

- date of advertisement for the post of acting principal;

- the advertisement for the post of acting principal;

- job description for the post of acting principal;

- members of the Board of Governors who:

(i) were present when the job description was written;

(ii) were present at shortlisting;

(iii) were present at interview; and

(iv) minutes of the recruitment and selection meetings for points

(i) to (iii) inclusive above; and

- the name(s) of the EA officer(s) in attendance at each stage of the recruitment and selection process listed at points (i) to (iii) inclusive above.”

4. The redacted email dated 10 September 2020 from the Chair of of the Board of Governors of CHGS was cc'd to Phil Stewart, an HR officer with EA. The Applicant submits that this is relevant information being held by the EA.
5. I find that it is not information which falls within the scope of the request as was not an advertisement for the post of acting principal and does not fall within any other category set out in the request.
6. Accordingly, and as stated in the Decision of 24 July 2023, the Applicant has not submitting that there is any further information held by EA which falls within the scope of the request.
7. I have considered in accordance with rule 44 of the Tribunal Procedure (First-tier Tribunal)(General Regulatory Chamber) Rules 2009, as amended, whether to review the Decision dated 24 July 2023 and have decided not to undertake a review as I am not satisfied that there was an error of law in the Decision.
8. In considering the application for permission to appeal I have considered whether the grounds of appeal referred to above are arguable. This means that there must be a

realistic (as opposed to a fanciful) prospect of success – see Lord Woolf MR in *Smith v Cosworth Casting Processes Ltd* [1997] 1 WLR 1538.

9. I do not consider that the Applicant's grounds of appeal identify an arguable error of law, or exceptional circumstances of the kind described in *Christie v Information Commissioner* [2022] UKUT 315 (AAC), that would justify a grant of permission to appeal.
10. I refuse permission to appeal. The Applicant may renew his application to the Upper Tribunal directly if he so wishes.

Signed: Judge J Findlay

Date: 22 November 2023