



**Appeal number: EA/2022/0076
[2022] UKFTT 00249 (GRC)**

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

LIAM HARRON

Applicant

- and -

THE INFORMATION COMMISSIONER

Respondent

TRIBUNAL: JUDGE ALISON MCKENNA

Sitting in Chambers on 10 August 2022

**RULING
on Rule 4 (3) Application**

The appeal is struck out for the following reasons

REASONS

1. On 15 July 2022 (sent on 26 July) the Registrar struck out the Applicant's Notice of Appeal for want of jurisdiction. By email dated 3 August 2022, the Applicant has asked for the Registrar's Decision to be considered afresh by a Judge, pursuant to rule 4 (3) of the Tribunal's Rules¹. I have accordingly considered this matter afresh.
2. The strike out was made because no Decision Notice had been made by the Respondent at the time the Notice of Appeal was submitted. The Applicant was given several opportunities to explain why he considered that the Tribunal had jurisdiction in a matter where there was no Decision Notice. The Registrar finally concluded that the matter fell under rule 8 (2) (a), which requires a mandatory strike out in cases where the Tribunal lacks jurisdiction and does not transfer the appeal to another jurisdiction. The Applicant has not, in requesting a reconsideration, explained why he thinks the Registrar's ruling was wrong.

¹ [General Regulatory Chamber tribunal procedure rules - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/general-regulatory-chamber-tribunal-procedure-rules)

3. Having considered the matter afresh, I find myself in agreement with the Registrar that the Tribunal has no jurisdiction to consider this appeal. This is because the Tribunal's jurisdiction to consider an appeal under s. 57 FOIA² relies upon the prior service of a Decision Notice. Under rule 8 (2) (a), there is no discretion to allow an appeal to proceed if it is outside the Tribunal's jurisdiction and so the Registrar had no alternative but to strike out the Notice of Appeal. Similarly, I conclude that I have no alternative but to take the same action.
4. The Applicant has requested an oral hearing (to be heard jointly with EA/2021/0337) at which to make submissions in relation to the strike out, but there is no entitlement to a hearing in connection with strike out proceedings – see rule 32 (3) - and so I refuse his request.
5. The Applicant has referred to a recent Upper Tribunal ruling in which UTJ Wikeley, whilst refusing permission to appeal, found that both the Registrar and myself had in that case misunderstood the Applicant's argument. I note that Judge Wikeley observes at paragraph 36 of his ruling that he was himself labouring under the same misapprehension as ourselves for about 45 minutes of the hour-long permission hearing. Whilst the Applicant characterises this as a serious mistake on my part (for which I apologise), I would also ask him to reflect on the fact that a great deal of judicial time was expended before his point became clear and I would therefore ask him to consider whether he might seek to achieve greater clarity in his written submissions. It will not always be possible (as in this case) to allow him to expand upon his written case in a video hearing.
6. For all these reasons, I now direct that this Notice of Appeal be struck out.

(Signed)

Dated: 10 August 2022

Judge Alison McKenna

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² [Freedom of Information Act 2000 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

