



NCN: [2023] UKFTT 00170 (GRC)

**Case Reference: EA/2022/0302
EA/2022/0303**

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

Heard: by determination on the papers

Heard on: 22 February 2023

Decision given on: 23 February 2023

Before:
Judge Alison McKenna

SHAMIR AHMED ALI

Appellant

- and -

THE INFORMATION COMMISSIONER

Respondent

DECISION

These appeals are struck out under rule 8 (3) (c) as having no reasonable prospect of success.

REASONS

1. The Respondent's Strike Out Application dated 9 January 2023 is allowed in respect of both appeals.
2. The Appellant made two information requests about complaints against staff and staff dismissals in the West Midlands Ambulance Service University NHS Foundation Trust ('the public authority'). The Information Commissioner published Decision Notices on 3 October 2022 and 6 October 2022, which found that the public authority was entitled to rely in both cases on s. 40 (2) of the Freedom of Information Act 2000 ('FOIA') to refuse the requests. The Appellant filed similar Notices of Appeal on 10 October 2022. The two appeals were consolidated by the Tribunal's case management directions.
3. On 9 January 2023, the Information Commissioner, in filing its consolidated Response to the appeals, applied for them both to be struck out under rule 8 (3)(c) of the Tribunal's rules on the basis that the appeals had no reasonable prospects of success.
4. The Appellant's Grounds of Appeal in both cases are that he is dissatisfied by the Decision Notices and that he believes they were motivated by racism. The outcome he seeks is that 'the truth is out there'.
5. The Appellant was invited to make submissions in response to the proposed strike outs, as required by rule 8 (4). On 10 January 2023, the Appellant submitted that the strike out applications were further evidence of discrimination against him and that he will take his case to the European Courts.
6. I have considered the Upper Tribunal's decision in *HMRC v Fairford Group (in liquidation) and Fairford Partnership Limited (in liquidation)* [2014] UKUT 0329 (TCC), in which it is stated at [41] that

... an application to strike out in the FTT under rule 8 (3) (c) should be considered in a similar way to an application under CPR 3.4 in civil proceedings (whilst recognising that there is no equivalent jurisdiction in the First-tier to summary judgement under Part 24). The Tribunal must consider whether there is a realistic, as opposed to a fanciful (in the sense of it being entirely without substance) prospect of succeeding on the issue at a full hearing...The Tribunal must avoid conducting a "mini-trial". As Lord Hope observed in Three Rivers the strike out procedure is to deal with cases that are not fit for a full hearing at all.
7. Applying this approach, I have considered both parties' representations and concluded that this is a case which may be described as 'not fit for a full hearing'. This is because the role of this Tribunal under s. 57 and s. 58 FOIA is to decide whether there is an error of law or inappropriate exercise of discretion in the Information Commissioner's Decision Notice. The grounds of appeal do not engage

with that jurisdiction but express dissatisfaction and allege racism. I note that the Information Commissioner has most strongly refuted the serious allegation of racism.

8. It does not seem to me that any Tribunal properly directed could allow either of these appeals because they do not suggest any error of law in the Decision Notices and they ask for remedies which the Tribunal may not provide. In all the circumstances, I have concluded that both of these appeals should be struck out as having no reasonable prospects of success. I direct accordingly.

(Signed)

Dated: 22 February 2023

Judge Alison McKenna

© CROWN COPYRIGHT 2023

