



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

**Tribunal Reference:** EA/2014/0129, EA/2014/0138  
**Appellant:** Ashok Mahajan  
**Respondent:** The Information Commissioner  
**Judge:** NJ Warren

**DECISION NOTICE**

1. On 19 August 2013 Mr Mahajan made a request for information under the Freedom of Information Act (FOIA) to the Legal Ombudsman. The request was for information about the ombudsman's policy when dealing with complaints. On 5 September 2013 he made another detailed request for various policies. By virtue of Section 10 FOIA the Legal Ombudsman was under a duty to comply with the requests no later than the 20<sup>th</sup> working day following their receipt.
2. By 25 September 2013 Mr Mahajan had not received a reply to either request so he made a complaint to the Information Commissioner (ICO). The following month the ICO telephoned the Legal Ombudsman. The Legal Ombudsman maintains that he replied to both requests by post on 19 September 2013. On learning that Mr Mahajan had not received the replies another copy was sent to him. On 8 May 2014 the ICO issued two formal decision notices. These explained in some detail the information the ICO had obtained about the Legal Ombudsman's processes for recording and replying to information requests and also explained his conclusion that the Ombudsman had responded to the requests within the statutory time limit. In correspondence with the Tribunal Mr Mahajan acknowledges that he does experience difficulties with delivery of post at his present address.
3. The ICO noted that Mr Mahajan was unhappy with the amount of information disclosed but confined his decision notice to the complaint of failure to reply within

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the time limit on the ground that Mr Mahajan should first pursue a review with the Legal Ombudsman if he wished to challenge the actual information supplied.

4. Mr Mahajan has appealed to the Tribunal against both the ICO decision notices. The ICO has asked for both appeals to be struck out on the ground that they have no reasonable prospect of success.
5. I take first Mr Mahajan's complaint that the ICO wrongly confined himself to the time limit issue and should instead have investigated Mr Mahajan's complaints about the substance of the information supplied. It may well be that the scope of the decision notice involved the exercise of a discretion by the ICO; and the Tribunal is empowered to revisit the exercise of a discretion. However, in this case, the discretion was exercised in accordance with the principle set out in Section 50(2)(a) FOIA that complainants should first exhaust review procedures under a public authority's code of practice. In my judgement, no reasonable Tribunal on these facts would exercise the discretion differently from the ICO. To do so would be entirely disproportionate and involve the Tribunal, the ICO and the Legal Ombudsman in litigation without prior attempts to settle or identify the contested issues administratively.
6. That leaves Mr Mahajan's other complaint about the manner of the ICO's investigation and his conclusion on the observance of the time limit.
7. It is important to be clear about the grounds on which Mr Mahajan attacks the ICO decision notice.
8. So far as the Legal Ombudsman's office is concerned:-
  - (a) It is littered with institutionally racist, corrupt and morally bankrupt manufacturers of evidence and lying criminal thugs.
  - (b) Its investigators perhaps take bribes.
  - (c) In this particular case staff manufactured evidence in an attempt to show compliance with Section 10 FOIA.

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9. So far as the ICO office is concerned:-
- (a) There is an attempt to cover up conduct which reeks of nepotism and bias.
  - (b) Caseworkers have their favourite public authorities and pick and choose the complaints they wish to deal with.
  - (c) It practices double standards and is always in favour of public authorities, happily accepting any statement made by them.
  - (d) They have wilfully kept evidence from Mr Mahajan which might reveal dishonest conduct and bias for the Legal Ombudsman.
10. I have reviewed the material before the Tribunal including further observations invited from Mr Mahajan. In my judgement there is no reasonable possibility on the evidence of a Tribunal finding that Mr Mahajan's criticisms of the ICO decision notice have been made out.
11. For these reasons, I conclude that the appeals have no real prospect of success. It would be unfair to the ICO, and possibly to the Legal Ombudsman, for proceedings to continue and it is right for me to bring them to an end now by striking out the appeals.

**NJ Warren**

**Chamber President**

**Dated 16 July 2014**