



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

Tribunal Reference: EA/2013/0154
Appellant: Robert Capewell
Respondent: The Information Commissioner
Second Respondent Her Majesty's Revenue and Customs
Judge: NJ Warren

DECISION NOTICE

1. In September 2012 Mr Capewell asked HM Revenue and Customs (HMRC) for some information under the Freedom of Information Act (FOIA). He wanted to know the case names and court details of all the cases in the previous twelve years in which a named individual had been appointed as a receiver.
2. HMRC refused the request under the costs rule. They have since produced to the Information Commissioner (ICO) detailed calculations demonstrating that the cost of answering the request would exceed the statutory maximum. HMRC also point out that even if they were able to collect the information together they would be prevented from disclosing individual case names and details by their own governing statute.
3. Mr Capewell complained unsuccessfully to the ICO and now appeals to the Tribunal against the ICO decision. The ICO has applied for the appeal to be struck out on the ground that it has no reasonable prospect of success. The HMRC have applied to be joined to the appeal as respondents.
4. Mr Capewell has been sent a copy of the ICO application and has been invited to comment.
5. So far as I can tell, Mr Capewell advances two arguments.

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6. First, he produces some information disclosed to him nearly three years ago by the Crown Prosecution Service (CPS) showing about twenty appointments of the named person in HMRC cases. The list identifies the dates of the applications made and the orders but states only that the relevant court was the High Court. The parties are not named nor are the Court action numbers given. I fail to see how the CPS information, only now, so far as I can see produced to HMRC, can possibly reduce the work required to produce the requested information from HMRC records. There remains then in any event, of course, the question of the statutory bar on the disclosure of names.
7. Mr Capewell's second argument invokes the Civil Procedural Rules and the rights therein contained to obtain from the court records of particular actions. These have no bearing on the ability of HMRC to produce the requested information from their records.
8. On the material before me, I judge the ICO case to be unanswerable. It is inevitable that a Tribunal would find no flaw in the ICO decision notice. It would be an injustice to the ICO and to HMRC for the proceedings to continue – and it would do Mr Capewell no favours either. I therefore bring them to an end now by striking out the appeal on the ground that it has no reasonable prospect of success.

NJ Warren

Chamber President

Dated 15 October 2013