



**IN THE COURT OF APPEAL, CIVIL DIVISION  
APPLICATION FOR A SECOND APPEAL**

REF: **B2/2021/1025**



**ROBERT HOCKETT    -v-    BRISTOL CITY COUNCIL**

**Decision on an application for a second appeal.** The Judge will not give permission unless he or she considers that (a) the appeal would i) have a real prospect of success; and ii) raise an important point of principle or practice; or (b) there is some other compelling reason for the Court of Appeal to hear it.

**ORDER made by the Rt. Hon. Lord Justice Bean**

On consideration of the appellant's notice and accompanying documents, but without an oral hearing, in respect of an application for permission to appeal

**Decision: Permission to appeal REFUSED**

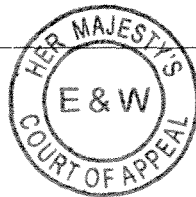
**Reasons**

I agree with Judge Ralton that the critical question in this case is whether a tenant in local authority housing should make a subject access request under data protection legislation before applying to a court for pre-action disclosure.

I also agree with Judge Ralton that the deputy district judge was right to refuse to make an order for pre-action disclosure. Pre-action disclosure is always a discretionary remedy. To make an order when the tenant has not used the Council's complaints procedure, has not made a subject access request, and has apparently refused to allow inspection of the premises goes against both the letter and the spirit of the relevant pre-action protocol and the policy of the courts to encourage parties to treat litigation as a last resort. I can see no plausible explanation for the course being adopted on behalf of the Claimant other than to increase the income of his solicitors.

I am wholly unimpressed by the elaborate argument to the effect that the answer to a subject access request may consist of information rather than copies of documents. If the Council's answer to the subject access request turns out to be evasive or to conceal the contents of relevant documents in its possession then the case for a renewed application for pre-action disclosure might well be strengthened.

The proposed appeal would not in my view have a real prospect of success and there is no other compelling reason to allow a second appeal.



*By the Court*

Signed:

Date: Lord Justice Bean  
20<sup>th</sup> August 2021

**Notes**

- (1) Permission to appeal will only be granted in respect of second appeals if the court considers that:
  - (a) the proposed appeal would have a real prospect of success and would raise some important point of principle or practice; or
  - (b) there is some other compelling reason for the relevant appellate court to hear the appeal.
 In respect of second appeals from the county court or High Court, see CPR 52.7  
 In respect of appeals from the Upper Tribunal, see Article 2 of the Appeals from the Upper Tribunal Order 2008 (SI 2008/2834)
- (2) Where permission to appeal has been refused on the papers, that decision is final and cannot be further reviewed or appealed  
 See rule 52.5 and section 54(4) of the Access to Justice Act 1999.
- (3) Where permission to appeal has been granted you must serve the proposed bundle index on every respondent within 14 days of the date of the Listing Window Notification letter and seek to agree the bundle within 49 days of the date of the Listing Window Notification letter (see paragraph 21 of CPR PD 52C).

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