



**THE UPPER TRIBUNAL
(ADMINISTRATIVE APPEALS CHAMBER)**

UPPER TRIBUNAL CASE NO: GIA/1694/2010

APPLICATION FOR PERMISSION TO APPEAL TO THE COURT OF APPEAL

Tribunals, Courts and Enforcement Act 2007, section 13
Tribunal Procedure (Upper Tribunal) Rules 2008
Appeals from the Upper Tribunal to the Court of Appeal Order 2008

Appellant: Simon Birkett (Campaign for Clean Air in London)
Respondents: Department for Environment, Food and Rural Affairs and the
Information Commissioner
Date of decision: 26 January 2011

DECISION

Permission to appeal is given.

REASONS FOR DECISION

1. This application for permission to appeal was delivered by hand on 1 March 2011 and reached me today, having previously been referred to Upper Tribunal Judge Wikeley in his absence on 15 March 2011.

2. As Mr Birkett has applied for permission to appeal, I need to consider under rule 45(1) of the UT Rules whether to review the decision. I have not done so, as the circumstances of this case do not come within the limited grounds on which review is allowed by that provision.

3. As I have not reviewed the decision, I must consider under rule 45(2) whether to give permission to appeal. An appeal lies under section 13 of the 2007 Act ‘on any point of law arising from a decision made by the Upper Tribunal’. The appeal lies to ‘the relevant appellate court’ (section 13(11) and (12)), which for this case is the Court of Appeal in England and Wales. Article 2 of the Appeals from the Upper Tribunal to the Court of Appeal Order provides that the Upper Tribunal may not grant permission to appeal to the Court of Appeal unless it

‘considers that-

- (a) the proposed appeal 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.’

4. I consider that this case raises an important point of principle and as such merits the attention of the Court of Appeal. The same issue arose in the related case of *Information Commissioner v Home Office* (GIA/2098/2010). It also arose separately before a panel chaired by Upper Tribunal Judge Howell (although the case has since been decided on different grounds) and in a different Chamber before a panel chaired by Blake J. It is unfortunate that the Information Commissioner did not draw those other cases to my attention under his duty to assist the Upper Tribunal in furthering the overriding objective. Duplication of effort is not an efficient use of judicial resources or the time and costs of the parties.

**Signed on original
on 21 March 2011**

**Edward Jacobs
Upper Tribunal Judge**