



HM COURTS & TRIBUNAL SERVICE

Case No. EA/2011/0004

REQUEST

**IN THE MATTER OF AN APPEAL TO THE FIRST-TIER TRIBUNAL
(INFORMATION RIGHTS)
UNDER SECTION 57 OF FREEDOM OF INFORMATION ACT 2000**

**GENERAL REGULATORY CHAMBER
INFORMATION RIGHTS**

OPEN JUDGMENT: APPLICATION FOR REVIEW: RULING

Appellant: Peter Burt

Respondent: Information Commissioner

**Additional
Respondent:** Ministry of Defence

Before

**David Marks QC
Tribunal Judge
Sitting Alone**

SUBJECT MATTER:

**APPLICATION FOR REVIEW OF OPEN DECISION DATED 20
SEPTEMBER 2011: RULES 43 & 44 TRIBUNAL PROCEDURE (FIRST-
TIER TRIBUNAL) (GENERAL REGULATORY CHAMBER) RULES 2009**

RULING

DECISION

The Tribunal acting by a single Judge and in accordance with Rules 43 and 44 of the Tribunal Procedure (First-Tier Tribunal) (General Regulatory Chamber) Rules 2009 (the Rules”) has decided that in taking into account the overriding objective, there should be review of its decision insofar as the closed decision and/or annexed to the above decision is concerned in accordance with Rule 44. In accordance with Rule 44, the Tribunal is satisfied that there has been an error of law in the said closed decision and/or annexe to the above decision, and in accordance with Rule 44(2) duly notifies the parties in writing by virtue of this ruling of the outcome of such review and of the right to appeal in relation to the outcome.

REASONS FOR DECISION

1. The reasons for this Decision of necessity must be limited to matters which touch and concern the closed judgment and/or annex which is attached to the formal decision of the Tribunal in this appeal.
2. At paragraph 57 of the open judgment, the Tribunal stated the following, namely:-

“57. The findings of the Tribunal are of necessity set out in the closed judgment dealing in some detail with the remaining redacted items. The Tribunal’s conclusions in its closed judgment will mean that the Appellant is to be supplied with fresh redacted versions of the 2 reports. That judgment accompanies this open judgment but is available to the Commissioner and to the MoD alone.”
3. For reasons which will be set out in a short closed annex to this ruling and which were advanced in a closed annex to the application for review/permission to appeal lodged by the Additional Respondent, namely the MoD, the Tribunal, acting by a single Tribunal Judge is entirely satisfied that because of the matters just alluded to, the second sentence of paragraph 57 of the open judgment must be deleted and the Tribunal, acting by a single Judge therefore so rules.
4. In accordance with Rule 44 of the above Rules and in accordance with the terms of the ruling set out above, this Tribunal formally notifies the

parties in writing of the outcome of such review in the way indicated above. It further notifies the parties of the right to appeal in relation to the outcome of the review.

5. However, the Tribunal would respectfully point out that there would be little advantage, let alone any point, in the Appellant taking any further steps with regard to the review which has been ordered and directed by virtue of this ruling given the fact that the proper basis and grounds for the said review are articulated in the closed annex which is appended to this ruling and which is available by definition only to the Information Commissioner and to the Additional Respondent.
6. For the sake of completeness, the Tribunal is entirely satisfied that a review is justified on the basis that there was an error of law contained in the closed annex to the original decision.

David Marks QC
Tribunal Judge

Dated 25th October 2011