



**IN THE FIRST-TIER TRIBUNAL**

**Case No. CCA/2009/0002**

**(CONSUMER CREDIT)  
GENERAL REGULATORY CHAMBER**

**[2010] UKFTT 408 (GRC)**

**On appeal from:**

**Office of Fair Trading's**

**Decision reference:**

ADJ/1775-493867

**Dated:**

5 January 2009

**Appellant:**

European Environmental Controls Limited

**Respondent:**

The Office of Fair Trading

**Date of decision:**

23 August 2010

**DECISION ON COSTS AND PERMISSION TO APPEAL**

**Before**

**HH Judge Peter Wulwik (Chairman)**

**Nicholas Paul Baxter**

**Joan Stone**

**For the Appellant:**

Fred Philpot and Simon Popplewell,  
instructed by Hodge Halsall LLP

**For the Respondent:**

Anneli Howard and Owain Draper,  
instructed by Agnes Shodimu-Collins,  
Legal Division of the Office of Fair Trading

**Subject matter:**

Appeal against revocation of consumer credit  
standard licence – costs – whether unsuccessful  
appellant acted unreasonably in bringing and/or  
conducting the proceedings – the Tribunal Procedure  
(First-tier Tribunal) (General Regulatory Chamber)  
Rules 2009, rule 10(1)(b)

Appeal against revocation of consumer credit  
licence – application for permission to appeal –  
whether to review decision – whether permission to  
appeal to be granted – the Tribunal procedure (First-  
tier Tribunal) (General Regulatory Chamber) Rules  
2009, rules 43 – 45.

**Cases referred to:**

Sodha v The Office of Fair Trading, 16 March 2009  
(CCAT)

ET Marler Limited v Robertson [1974] ICR 72

Edwards v Bairstow [1956] AC 14

HMRC v Kearney [2010] EWCA Civ 288

Georgiou v Customs and Excise Commissioners  
[1996] STC 463

Yeboah v Crofton [2002] EWCA Civ 794

Meek v Birmingham DC [1987] IRLR 250

Argus & Ors. v OFT [2006] UKCLR 1135

British Telecommunications Plc v Sheridan [1990]  
IRLR 27

**DECISION OF THE FIRST-TIER TRIBUNAL  
ON COSTS AND PERMISSION TO APPEAL**

1. On 28 June 2010 the Tribunal sent to the parties their decision unanimously dismissing the appeal of European Environmental Controls Limited (“EEC”) against the revocation of its consumer credit standard licence. The decision is reported at [2010] UKFTT 274 (GRC).
2. On 12 July 2010 the Office of Fair Trading (“the OFT”) sent to the Tribunal an application for costs, indicating that it was content for the application to be determined without a hearing. On the same date the Tribunal gave directions for written representations in relation to the costs application, giving EEC the opportunity to have an oral hearing on the issue of costs if they wished to do so. On 23 July 2010 EEC sent to the Tribunal written submission opposing the application for costs. On 2 August 2010 the OFT replied to EEC’s written representations. On 6 August 2010 EEC informed the Tribunal that they did not seek an oral hearing on the OFT’s costs application but correcting what they considered to be a factual inaccuracy in the OFT’s reply.
3. On 26 July 2010 EEC sent to the Tribunal an application for permission to appeal against the Tribunal’s substantive decision of 28 June 2010. The application was initially not made using the relevant pro-forma application for permission to appeal. On 27 July 2010 the Tribunal gave directions for written representations in relation to the application for permission to appeal, being mindful of its obligation under rule 43(1) of the Tribunal procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009 that it must first consider, taking into account the overriding objective in rule 2, whether to review its decision in accordance with rule 44. On 28 July 2010 EEC submitted a completed pro-forma application for permission to appeal. On 10 August 2010 the OFT sent to the Tribunal written submissions opposing the application for permission to appeal. On 13 August 2010 EEC replied to the OFT’s written representations.
4. The OFT’s application for costs and EEC’s application for permission to appeal are being determined on the papers and without an oral hearing.

**A. The OFT’s application for costs**

5. In its written application dated 12 July 2010 the OFT stated that the application for costs was made under paragraph 15 of Schedule A1 to the Consumer Credit Act 1974 and rule 10 of the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009. The OFT attached to the application a provisional draft schedule of the costs and expenses claimed by the OFT in respect of the appeal, including external Counsel and its internal legal costs, in the total sum of £398,727.79.
6. The OFT submitted that EEC had acted unreasonably in bringing the appeal and/or in its conduct of the proceedings and sought its costs on the following grounds:
  - (a) EEC's appeal was manifestly unfounded and should never have been brought in the first place.
  - (b) EEC's conduct during the appeal was unreasonable and had caused the OFT to incur further unnecessary costs.
  - (c) An award of costs in the OFT's favour was appropriate having regard to the OFT's costs being funded by the taxpayer.
  - (d) EEC was a substantial company with a turnover exceeding £10m per annum.
- (i) The merits of the appeal
7. The OFT relied on the substantive decision dismissing EEC's appeal and the Tribunal's findings and conclusions to support its contention that EEC's appeal was manifestly unfounded.
- (ii) EEC conduct during the appeal
8. The OFT relied on a number of matters:
  - (a) The Tribunal's finding that EEC was reactive and the fact that its attitude evidenced throughout the proceedings was to try and do the minimum in terms of alteration of its business practices. It was said that much of the appeal could have been avoided if EEC had taken independent legal advice rather than relying on Sefton Trading Standards or the OFT to advise them what to do.
  - (b) EEC's failure to implement its draft Code of Conduct and in adopting the truncated Code of Practice.

- (c) EEC's breaches of the 30 day and 120 day rules in relation to repeat visits to customers and other precautions in the Code of Practice, together with breaches of the undertakings given to the Adjudicator and of the DSA Code of Conduct. It was said that EEC's persistent denials meant that the OFT had to establish the breaches committed by EEC.
- (d) EEC's failure to adopt many of the recommendations suggested by its own expert, including those agreed with the OFT's expert, and the failure to propose any further remedial action until the second week of the appeal.
- (e) EEC's failure to provide a comprehensive or up to date account of its documentary guidelines and training and disciplinary procedures. It was said that EEC's witnesses dodged the issue, passing the buck to one of the directors Mrs Fox.
- (f) EEC's stance in relation to interim applications lacked merit, including EEC's contention during the hearing of the preliminary issues that the OFT was seeking to raise new issues, reasons or allegations that had not been raised in the minded to revoke process and EEC's attempt to exclude 5 of the additional witness statements served by the OFT on the basis that they were not consequential on the Tribunal's decision relating to the preliminary issues.

(iii) Funding of the OFT's costs by the taxpayer

9. The OFT's costs of the appeal were borne by the taxpayer. It was said that there were strong policy arguments that the OFT should be able to recover its costs where appropriate and that otherwise there would be the incentive for companies to appeal revocation decisions as a means of deferring the revocation of their licences without any adverse costs implications.

(iv) Funding of EEC's appeal (EEC's means)

10. The OFT submitted that there could be no objection to EEC having to pay the OFT's costs on the basis that it was a substantial and well-resourced company.
11. The OFT sought summary assessment of its costs as set out in the OFT's provisional draft schedule of costs.

EEC's written submissions on costs

12. In their written submissions dated 23 July 2010 EEC referred to the fact that Schedule A1 of the Consumer Credit Act 1974 had been repealed as of 1 September 2009 and that the transitional provisions set out in Article 4 and Schedule 4 of the Transfer of Functions of the Consumer Credit Appeals Tribunal Order 2009 did not apply since the appeal had not been disposed of on 1 September 2009. The only power to award costs was under rule 10 of the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009.
13. EEC submitted that under the 2009 Rules the Tribunal could only award costs if it found that EEC had acted unreasonably in bringing, defending or conducting the proceedings and that if it did make such a finding the Tribunal then had a discretion to award costs against it. EEC referred to the provisions of rule 10(5)(b) requiring the Tribunal to consider a person's financial means before making an order for costs but overlooked the fact that this only applied if the paying person was an individual.
14. EEC submitted that the fact that the OFT's costs were funded by the taxpayer and whether or not EEC might be a substantial company were not relevant to the question whether EEC had acted unreasonably in bringing, defending or conducting the proceedings and were only issues that went towards the Tribunal's discretion to make an order for costs in the event that the grounds for making an award of costs were otherwise satisfied.
  - (i) The allegation that the appeal was manifestly unfounded
15. EEC relied on the following matters:
  - (a) The detailed and lengthy arguments that took place during the appeal and what were said to be the many positive factors about EEC's business, with an unsuccessful appeal not equating to an unreasonable appeal.
  - (b) The fact that there was a real question to be determined as to whether or not EEC was fit to hold a consumer credit licence, with the many issues and arguments and lengthy evidence and submissions by EEC. The Tribunal had recognised that there had been a reduction in the number of complaints made against EEC, which showed that the bringing of the appeal was not manifestly unfounded or unreasonable.
  - (c) Guidance as to the question of unreasonableness could be obtained from the decision on costs of the Consumer Credit Appeals Tribunal in *Sodha v The Office of Fair Trading*, 16 March 2009, where the Tribunal had not awarded costs even though it had found the appellant's evidence on certain matters deliberately untruthful, there being other aspects of the appeal which it was entirely proper for

the appellant to argue. EEC's submissions were said to be entirely proper for them to argue.

- (d) The fact that the appeal caused the OFT to divert limited resources and incur costs in defending the appeal and that had EEC conducted its business differently the appeal would not have been necessary were not relevant matters in relation to the question whether EEC had been unreasonable in bringing, defending or conducting the proceedings.

(ii) The allegation that EEC's conduct during the appeal was unreasonable

16. EEC submitted that the question here was whether EEC had acted unreasonably in conducting the appeal and not whether it acted unreasonably in the manner in which it conducted its business. It was said that a number of matters relied on by the OFT were therefore irrelevant under this head namely:

- (a) The fact that EEC was found to be reactive and unwilling to take responsibility for its business practices, and that it should have taken legal advice rather than relying on Sefton Trading Standards Department.
- (b) The fact that EEC failed to implement its draft Code of Conduct.
- (c) Breaches of the 30 day and 120 day rules.
- (d) The fact that EEC did not adopt recommendations of its expert.

17. EEC further submitted that:

- (a) Had the OFT required clarification about documents, it could have asked. There was a lengthy explanation given as to EEC's procedures in the witness statement evidence of Mr Ball.
- (b) The OFT could have shortened the oral evidence of complainants by obtaining additional witness statements. There was a large amount of wasted time taken up by the OFT with Kilianne Corr, adding approximately 2 days to the hearing. It was said that the OFT should have abandoned her evidence on receipt of the substantial evidence from EEC in response.
- (c) The fact that EEC was unsuccessful on certain preliminary issues did not mean that its conduct in the proceedings was unreasonable. The OFT itself was not successful on certain preliminary issues.

(d) The 5 additional witness statements that EEC sought to exclude had been served by the OFT only shortly before the directions hearing on 18 February 2010.

18. EEC submitted that the Tribunal should look at EEC's conduct as a whole in determining whether or not there had been unreasonable conduct in the proceedings. There had been considerable co-operation between the parties during the appeal process, it being said that both the company and its advisors had conducted themselves appropriately throughout the proceedings.

19. In addition, EEC relied on guidance in relation to the power to award costs for unreasonable conduct in the bringing or conducting of proceedings in the Employment Appeals Tribunal, with examples of the type of conduct constituting unreasonable behaviour being set out in Harvey on Industrial Relations and Employment Law, PI (Practice and Procedure), paragraph 1703 at pages PI-469/470.

(iii) Funding of OFT's costs

20. EEC submitted that:

(a) The fact that the OFT's costs were borne by the taxpayer did not give the OFT any greater right to their recovery under the 2009 Rules.

(b) The amount of the OFT's costs did not suggest that the OFT considered the appeal to be so unmeritorious as to be hopeless.

(iv) EEC's means

21. There was no dispute that EEC had a significant turnover but this was not the same as profit. EEC was said to have broken even in 2005, with a loss in 2006 and 2008 and a small profit based on turnover of 4.6% in 2007 and 1.62% in 2009. It was said that EEC had been affected by the economic downturn, that the revocation of its consumer credit licence would have a significant effect on EEC's business and that 12 staff had been made redundant in recent weeks. Any significant costs award would have a serious adverse effect on its business.

22. EEC submitted that if there was to be an award of costs a summary assessment was inappropriate for an appeal that had taken 2 weeks.

23. EEC considered that the OFT's application for costs was itself unmeritorious and unreasonable, that the fact that the Tribunal had found for the OFT did not mean that EEC had acted unreasonably and that much of the conduct complained of by the OFT was not relevant to conduct during the appeal but was a repetition of the



complaints about the way EEC conducted its business. In particular, EEC relied on the decision on costs in *Sodha v The Office of Fair Trading*, paragraph 10, where the Consumer Credit Appeals Tribunal expressed the hope that it was not going to be the practice of the OFT to seek its costs in every appeal which it successfully resisted, it not having been the practice of the OFT to seek its costs under the former regime of appeals and with it being stated that such an application should in future only be made in clear cases.

#### The OFT's reply on costs

24. The OFT stated that they were content for the costs application to be dealt with under rule 10 of the 2009 Rules, with EEC being said to have acted unreasonably both in bringing the appeal and in its conduct of the proceedings as a whole. EEC's financial means were not to be a factor in the exercise of the Tribunal's discretion in considering costs, with rule 10(5)(b) only requiring the Tribunal to consider a person's financial means if the paying person was an individual.
25. The OFT submitted that the case of *Sodha* should not be considered persuasive for a number of reasons:
- (a) Costs should be decided by reference to the individual circumstances and requirements of justice in each case.
  - (b) The Tribunal had overwhelmingly rejected the vast majority of EEC's arguments.
  - (c) The present case was a clear case for an award of costs. It was unrealistic in the current economic climate to expect the OFT to bear all its costs in establishing its case and resisting unfounded objections.
  - (d) It was contrary to the public interest if appellants could expect to escape an award of costs, with the Tribunal's costs powers being there to be used in appropriate cases.
26. The OFT reiterated their criticism of EEC's conduct during the appeal, with it being said that the OFT were not attacking the way in which EEC conducted its business. It was accepted that the fact that Kilianne Corr did not come up to proof and that the OFT was unsuccessful on certain preliminary issues might have adverse costs consequences for the OFT, it being said that these matters should not defeat the OFT's costs application but should be taken into account in determining the amount of costs to be awarded to the OFT.

27. The OFT preferred a summary assessment of costs but did not object to a detailed assessment.

#### The Tribunal's conclusions on costs

28. The power of the Tribunal to award costs is now set out under rule 10 of the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009. The Tribunal agree with EEC that Schedule A1 to the Consumer Credit Act 1974 was repealed by virtue of Article 4 and Schedule 4 of the Transfer of Functions of the Consumer Credit Appeals Tribunal Order 2009 and that the transitional provisions of the 2009 Order do not apply since the appeal had not been disposed of as at 1 September 2009.

29. By rule 10(1)(b) of the 2009 Rules the Tribunal may make an order in respect of costs "...if the Tribunal considers that a party has acted unreasonably in bringing, defending or conducting the proceedings". By rule 10(5)(b) the Tribunal cannot make an order for costs without considering the paying person's financial means but those provisions only apply if the paying person is an individual, as submitted by the OFT.

30. The Tribunal consider that whether a party has acted unreasonably in bringing, defending or conducting proceedings has to depend on the facts of each case, with there being no hard and fast principle applicable to every case.

#### (i) The allegation that the appeal was manifestly unfounded

31. The Tribunal do not accept that EEC's appeal was manifestly unfounded. There were detailed and lengthy arguments during the 10 day appeal, with some positive factors about the business now conducted by EEC and a reduction in the number of complaints, as acknowledged by the Tribunal in its decision. The Tribunal agree with the assertion that an unsuccessful appeal does not necessarily mean an unreasonable appeal.

32. The Tribunal also accept that there was a real question to be determined as to whether or not EEC was fit to hold a consumer credit licence, despite the Tribunal's view that EEC had failed to take responsibility for its business practices or to take a proactive approach in regard to its business practices. The Tribunal reject the OFT's contention that the appeal should never have been brought in the first place.

(ii) The allegation that EEC's conduct during the appeal was unreasonable

33. The Tribunal agree with EEC that the question here is whether or not EEC acted unreasonably in conducting the appeal, rather than the manner in which they conducted their business.

34. Both parties can be criticised in relation to individual aspects of the appeal hearing, EEC in relation to the lack of clarity regarding its documentary guidelines and training and disciplinary procedures and the OFT in relation to the Kilianne Corr saga. However the Tribunal would not characterise the conduct of either of the parties during the appeal as unreasonable. Likewise, the Tribunal does not find the conduct of either party unreasonable in relation to the interim applications that were made during the appeal process or at the main hearing of the appeal.

(iii) Funding of OFT's costs

35. The fact that the OFT's costs are borne by the taxpayer only becomes relevant if the Tribunal considers that a party has acted unreasonably in bringing, defending or conducting the proceedings.

(iv) EEC's means

36. The 2009 Rules only oblige the Tribunal to consider the paying person's financial means if that person is an individual. EEC is not an individual but a company. In any event, EEC's means are not relevant to the question whether or not EEC acted unreasonably in bringing, defending or conducting the proceedings but could only be relevant if at all in relation to the Tribunal's discretion to order costs in so far as it was decided that EEC had acted unreasonably in bringing, defending or conducting the proceedings, which is not the case.

37. The Tribunal would add the following in relation to costs:

(1) It is obviously a sensible proposition that an application for costs under rule 10 of the 2009 Rules should only be made in a clear case. The Tribunal would not wish to discourage litigants from resorting to a Tribunal for redress by the threat of a costs sanction unless an award of costs was justified.

(2) As Sir Hugh Griffiths stated in *ET Marler Limited v Robertson* [1974] ICR 72, NIRC:

"Ordinary experience of life frequently teaches us that which is plain for all to see once the dust of battle has subsided was far from clear to the combatants once they took up arms".

38. The Tribunal are of the unanimous view that the OFT's application for costs should be refused and that there should be no order as to costs, with each party to bear their own costs of the appeal. The Tribunal's previous directions are to remain that the costs of the production of the trial bundles and of the attendance of the transcriber at the main hearing of the appeal are to be borne equally by the parties.

**B. EEC's application for permission to appeal**

39. In its written application for permission to appeal sent to the Tribunal on 26 July 2010 EEC sought permission to appeal the decision that it was not fit to carry on licensable activities within the meaning of Section 25 of the Consumer Credit Act 1974 on the following grounds:

- (a) Perversity of the decision, it being alleged that on the basis of the evidence no reasonable Tribunal could have reached such a decision.
- (b) Findings of fact where there was no or no sufficient evidence to support such findings.
- (c) Inadequate reasons for the decision.
- (d) Failure to resolve the issue as to whether or not there had been a breach of the "Chinese walls" procedure by the Adjudicator in the minded to revoke process".
- (e) Incorrect interpretation of the Unfair Terms in Consumer Contracts Regulations 1999.

40. EEC in its application for permission to appeal sought the reversal of the Tribunal's decision and a finding that EEC is a fit person to carry on licensable activities within Section 25 of the Consumer Credit Act 1974, alternatively that the matter be remitted to the Tribunal for a new hearing.

**The OFT's submissions on the application for permission to appeal**

41. In their written submissions dated 10 August 2010 the OFT did not take any procedural objection to the fact that the pro-forma application for permission to appeal was out of time but rather contended that the application for permission to appeal failed to identify any error of law as required by rule 42(5) of the 2009 Rules and that there was no basis for the Tribunal to review the decision under rule 44(1)(b) or to grant permission to appeal under rule 43(2).

42. The OFT submitted that:

- (a) The 21 points raised under grounds 1 and 2 of EEC's application for permission to appeal (perversity and unreasonable findings or lack of evidence to support the Tribunal's findings) did not disclose any arguable error of law, they were nothing more than challenges to the factual findings in the decision and did not show the Tribunal's findings to be perverse. It was said that there was no arguable error of law, with EEC being unable to show that the findings challenged were without evidence to support them or that no person acting judicially and properly instructed as to the relevant law could have come to the conclusions under appeal. The OFT relied on a number of authorities including *Edwards v Bairstow* [1956] AC 14, *HMRC v Kearney* [2010] EWCA Civ 288, *Georgiou v Customs and Excise Commissioners* [1996] STC 463 and *Yeboah v Crofton* [2002] EWCA Civ 794.
- (b) Ground 3 of EEC's application to appeal (inadequate reasons) was not sustainable and with the Tribunal's reasons being adequate. Again, the OFT relied on a number of authorities including *Meek v Birmingham DC* [1987] IRLR 250 and *Argus & Ors. V OFT* [2006] UKCLR 1135.
- (c) Ground 4 of EEC's application for permission to appeal (the Chinese walls issue) was not capable of being decisive or even material to the outcome, EEC having not sought a remission of the matter to a different Adjudicator for rehearing on the basis of any alleged breach of the Chinese wall between the Adjudicator and the OFT investigations unit but preferring to rely on the appeal process to the Tribunal being a rehearing.
- (d) Ground 5 of EEC's application for permission to appeal (incorrect construction of the UTCC Regulations) did not particularise the precise error or errors of law alleged, the OFT relying on the Tribunal's reasoning and findings on these matters.

EEC's reply to the OFT's submissions on the application for permission to appeal

43. EEC submitted that the various grounds of appeal relied on by them constituted errors of law, relying on *HMRC v Kearney* [2010] EWCA Civ 288, *Edwards v Bairstow* [1956] AC 14, *British Telecommunications Plc v Sheridan* [1990] IRLR 27 and *Meek v Birmingham DC* [1987] IRLR 250. It was said that EEC had not abandoned the Chinese walls issue.

### The Tribunal's conclusions on the application for permission to appeal

44. In accordance with rule 43(1) of the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009 the Tribunal must first consider, taking into account the overriding objective under rule 2, whether to review the decision in accordance with rule 44. By rule 44(1)(b) the Tribunal may only undertake a review of a decision if it is satisfied that there was an error of law in the decision. If the Tribunal decides not to review the decision and decides to take no action in relation to the decision or part of it, the Tribunal must consider whether to give permission to appeal in relation to the decision or that part of it.
45. The Tribunal agree with EEC that perverse and unreasonable findings on the evidence (ground 1 of the application for permission to appeal), lack of evidence to support the Tribunal's findings (ground 2), inadequate reasoning (ground 3), failure to resolve an issue if material (ground 4) and incorrect construction of the UTCC Regulations (ground 5) are capable of amounting to errors of law, if such grounds of appeal are made out. However, the Tribunal are not satisfied that there was an error of law in the decision. In particular, the Tribunal are of the view that:
- (1) The numerous points raised under grounds 1 and 2 (perversity and unreasonable findings or lack of evidence to support the Tribunal's findings) are nothing more than an attack on the Tribunal's findings of fact which the Tribunal were entitled to reach on the basis of the evidence before them.
  - (2) As to ground 3 (inadequacy of reasons), the decision sets out the Tribunal's findings on the issue of vulnerable consumers, the findings in respect of each of the heads of unfair, dishonest, improper and/or oppressive practices alleged against EEC and the Tribunal's reasons for concluding that EEC are unfit to retain their licence, which was the central issue that the Tribunal had to determine.
  - (3) EEC did not pursue before the Tribunal the Chinese walls issue (ground 4). They did not seek a remission of the matter to a different Adjudicator for rehearing on the basis of any alleged breach of the Chinese wall between the Adjudicator and the OFT investigations unit but were content to rely on the appeal process being a rehearing. It was not suggested by EEC that the Chinese walls issue was of any relevance having regard to the fact that the matter was proceeding by way of a rehearing.
  - (4) With regard to ground 5 (incorrect construction of the UTCC Regulations), EEC have not particularised the alleged error or errors of law in the Tribunal's construction of the Regulations.

46. The Tribunal are of the unanimous view that there is no basis for undertaking a review of the decision. Further the Tribunal consider that an appeal would have no real prospect of success. Accordingly EEC's application for permission to appeal is refused.
47. With regard to the Tribunal's decision on costs, the OFT's attention is drawn to Part 4 of the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009 which contains provisions relating to correcting, setting aside, reviewing and appealing Tribunal decisions. In relation to the Tribunal's refusal of EEC's application for permission to appeal, EEC have the right to make an application to the Upper Tribunal for permission to appeal the Tribunal's substantive decision. Any such application should be sent to the Upper Tribunal (Administrative Appeals Chamber), 5<sup>th</sup> Floor, Chichester Rents, 81 Chancery Lane, London WC2A 1DD so that it is received no later than one month after the date of notification of this decision to the parties. An authorised form is available for applying for permission to appeal to the Upper Tribunal.

**HH Judge Peter Wulwik (Chairman)**  
**23 August 2010**