



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

Appeal No. EA/2011/0081

BETWEEN:

DAVID MOSS

Appellant

and

THE INFORMATION COMMISSIONER

First Respondent

and

THE HOME OFFICE

Second Respondent

**RULING ON APPLICATION FOR
PERMISSION TO APPEAL TO UPPER
TRIBUNAL BY A SINGLE JUDGE**

1. The single Tribunal Judge has read the Appellant's formal application for permission to appeal to the Upper Tribunal dated 21 May 2012. This is accompanied by a 24 page document entitled "Application for permission to appeal 21 May 2012".
2. In Section D of the former document in the section entitled "D: Reasons for applying for permission to appeal and the outcome you are seeking: please state what error(s) of law you consider the Tribunal has made and what outcome you are seeking ...". The following passage appears, namely:
"Making the appeal entails accusing the EA 2011 0081 panel of perversity and the Appellant doesn't believe for one moment that they really are

perverse. But that is what is entailed by the perversity of the situation we all find ourselves in, cf. paragraph 8 of the 24 April 2012 Decision attached”.

The Tribunal finds no error of law in that passage or indeed in any part of the section within Section D of the formal permission to appeal as distinct from a generalised accusation of perversity based on alleged failures by the Tribunal to assess properly or at all the factual matters which are set out at length in the 24 page document referred to.

3. In the said 24 page document in the initial section headed “Abstract” the following passage appears, namely:

“The Appellant alleges that the Home Office’s defective decisions are blatantly iniquitous. The Tribunal gives no reason for dismissing that allegation and has misdirected itself further by failing even to mention in its Decision the Appellant’s other allegation, that the Home Office have been misleading the public for years about the reliability of “biometrics”.”

An allegation of iniquity and the other matters mentioned in the second sentence of the above cited paragraph are not grounds which constituted errors of law as distinct from errors of fact. Insofar as the allegation of iniquity is made the same is revisited later in the 24 page document particularly at paragraphs 63 and following in a section headed “Iniquity”. The Appellant there cites from paragraphs 115 and 116 of the Tribunal’s Decision in which paragraphs the Tribunal referred to the principle that a showing or a well founded allegation of iniquity or impropriety might undermine reliance on the type of public interest which had been considered by the Tribunal but that “no such showing is made out in the present case.”

4. In the circumstances the allegation of iniquity made by the Appellant is one which takes issue with the Tribunal’s finding or findings of fact as distinct from alleged errors of law.
5. In paragraphs 140 to 155 of the 24 page document there is a section headed “Findings of fact, questions of law and procedure”.
6. There is nothing in the said paragraphs which does any more than revisit certain questions of fact which are disputed by the Appellant and therefore nothing in the said paragraphs which can be said in any way to represent allegations that the Tribunal has committed errors of law.

7. In the circumstances the application for permission to appeal to the Upper Tribunal is refused.

Signed:

David Marks QC
Tribunal Judge

Dated: 11 June 2012