

CAMPAIGN FOR CLEAN AIR IN LONDON

“The cross-party campaign to achieve urgently and sustainably at least World Health Organisation recommended standards of air quality throughout London”

Campaign website: www.cleanairinlondon.org

CAMPAIGN UPDATE: 11 May 2010

‘Clean Air in London’ (CCAL) wins at Information Tribunal after Government’s counsel admits Tribunal’s ruling means “it does not have much of an appeal left”

Government plans to seek permission for a further appeal to stop release of redacted sections of Ministerial briefing papers

CCAL believes redacted sections are likely to highlight: weaknesses in Government’s case against legal action by European Commission for breaching air quality laws; and difficulties Government has had agreeing a co-ordinated approach with Mayor Johnson

Government has today re-applied for a time extension until June 2011 to comply with the EU daily limit value for dangerous airborne particles (PM₁₀)

Earlier today, the First Tier Information Tribunal began hearing an appeal by the Department for Environment Food and Rural Affairs against an Order by the Information Commissioner's Office on 2 November 2009 for it to release all information requested by the Campaign for Clean Air in London (CCAL) on 22 January 2009. CCAL’s original request was for:

“...a copy of any minutes, papers, correspondence or other material relating directly to any meeting (including sent subsequent to it) that takes places between Lord Hunt and Mayor Johnson. I believe the meeting may include discussions about the western extension of the congestion charging zone and air quality”.

CCAL’s barristers asked the Information Tribunal to reject the Government’s attempt to raise new legal arguments late in the appeal process. The Government admitted there were no special reasons why the Tribunal should consider the arguments and that the only reason it had not made them earlier was an error. The Tribunal ruled within minutes that the Government was not allowed to run the new arguments.

As a result, the Government’s barrister admitted, in open court, that “it does not have much of an appeal left” and said it intends to seek permission to appeal the Tribunal’s ruling.

The Tribunal has said it intends to publish written reasons for its decision before the end of this week after which the Government is expected to lodge formally its application for permission to appeal. If the appeal is granted, it would be heard by the Upper Tier of the Information Tribunal.

Quotes:

Simon Birkett, Founder of CCAL, said:

“It is amazing the Government has twice now refused to release this information to the Campaign for Clean Air in London (CCAL) and twice now appealed decisions against it: first by the Information Commissioner’s Office and now by the Information Tribunal.

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“Again and again, the Government is stalling and making excuses. After obtaining three tranches of the requested information, the remaining information CCAL is seeking is likely to highlight: weaknesses in the Government’s case against legal action by the European Commission for breaching air quality laws; and the difficulties the Government has had in agreeing a co-ordinated approach with the Mayor of London so that credible information and plans could be submitted to the European Commission. Worryingly, it is clear from the Ministerial briefing material already released to CCAL, Ministers and officials gave little or no thought to the scale of the health impacts of poor air quality in London when they were preparing to meet Mayor Johnson in January 2009.

“With the: Mayor saying, yesterday, he plans to launch final consultations in May about the removal of the western extension of the congestion charging zone (WEZ) and the postponement of the third phase of the London low emission zone (LEZ3); and Government re-applying today for a time extension to comply with the European Union (EU) daily limit value for dangerous airborne particles (PM₁₀), there has never been greater public interest in seeing the information the Government is hiding.

“The Government is clearly pursuing delay for delay’s sake so that:

- LEZ3 will be postponed;
- the WEZ will be removed;
- its time extension application will be granted; and
- legal action over PM₁₀ will be avoided

before this information is released.

“How many times does the Government have to be told it is in the wrong before it discloses key information relating to harmful emissions and the protection of public health in London?

“It is ironic the Government has reapplied today for a time extension to comply with the EU daily limit value for PM₁₀ in London on the same day it has lost again its fight to keep secret evidence which may show the European Commission was misinformed or misled by the Government in its original application to the Commission. Bizarrely, the reapplication assumes LEZ3 will be postponed until 2012 but not that the WEZ will be removed.

“Finally, CCAL wishes to thank again its legal team comprising leading barristers, Gerry Facenna and Laura Elizabeth John, and Phil Michaels, Head of Legal at Friends of the Earth. Without this tremendous legal team, CCAL would never have been able to win this case.”

Notes:

1. Full details of CCAL’s battle to obtain information around Ministerial meeting with Mayor Johnson on air quality, including Ministerial briefing papers, can be seen at:

http://www.cleanairinlondon.org/blog/_archives/2010/4/28/4516369.html

2. The Government’s reapplication for a time extension to comply with EU daily limit value for PM₁₀ in London is attached.