

## Statement on Court of Appeal judgment on environmental principles

The Court of Appeal has today handed down its judgment on a case concerning how environmental principles are considered in government policy making.

Campaign group Rights Community Action had appealed the High Court's judgment on a case relating to government policy on the setting of housing energy efficiency standards by local authorities. Part of the case involved whether government ministers had complied with the legal duty placed on them by section 19 of the Environment Act 2021 to have "due regard" to the Environmental Principles Policy Statement (EPPS) when they make policy.

The Office for Environmental Protection and environmental charity Green Alliance had intervened in the court proceedings to present evidence on the origin and application of the duty and the correct interpretation of the law.

Although the appeal was dismissed, the interventions were successful in that the Court of Appeal came to different conclusions from the High Court. It has clarified the law in several respects, including through its findings that:

1. There was a breach of the EPPS duty in this instance because the minister failed to have due regard to the EPPS when the policy was initially adopted (paragraphs 86 and 88). The High Court's judgment had not clearly held that this constituted a breach.
2. Applying the EPPS duty after the policy had been made did not remedy the earlier breach of the duty when the policy was adopted, nor did it retrospectively validate that decision (paragraph 88). This approach differs to that of the High Court at paragraph 44 of that judgment.
3. The EPPS duty must be applied at the outset of and throughout the policy making process. The Court clarified that the duty "does not apply simply at the point when a policy is adopted", but "when a policy is being formulated and different policy options are being considered." (paragraph 85).
4. If there has been a failure at an earlier stage to comply with the EPPS duty, the legal adequacy and good faith of any subsequent reconsideration of the duty are matters which can be challenged and which a Court can review. Depending on the circumstances, a Court can quash the policy if it considers this necessary (paragraph 87 and 88).
5. The EPPS duty must be carried out in substance, with rigour and an open mind (paragraph 93).

### Notes

Court of Appeal [ruling](#) in the case of R (Rights: Community: Action Ltd) v Secretary of State for Housing, Communities and Local Government.

Green Alliance [written submissions](#) to the Court of Appeal.

Green Alliance, 25 July 2025