

Neutral Citation Number: [2022] EWHC 510 (Admin)

Case No: CO/270/2022

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
ADMINISTRATIVE COURT
SITTING IN LEEDS

1 Oxford Row,
Leeds LS1 3BG
9th March 2022

Before:

MR JUSTICE FORDHAM

Between:

**THE QUEEN (on the application of ASSENT
BUILDING CONTROL LTD)**

Claimant

- and -

**CONSTRUCTION INDUSTRY COUNCIL
APPROVED INSPECTORS REGISTER LTD**

Defendant

- and -

**MINISTER OF STATE FOR BUILDING SAFETY
AND FIRE**

**Interested
Parties**

**SECRETARY OF STATE FOR LEVELLING UP,
HOUSING AND COMMUNITIES**

Kennedys for the Defendant

Determination as to Venue

MR JUSTICE FORDHAM:

1. This is a judicial determination on the papers, but where it is, in my judgment, appropriate to give reasons by way of a short judgment. This is a claim for judicial review in which a minded to transfer order (“MTTO”) was made on 7 February 2021. The Claimant had filed the claim in London and had answered “yes” to the question in Form N461: “Have you issued this claim in the region with which you have the closest connection?” The Form N461 went on to say this:

The Defendant’s registered office is in London. The Claimant is one of the largest organisations in the industry. It operates through six regional offices and has approx. 45 associates. It currently has approx. 35,000 live projects. There is a substantial public interest element such that the Claimant considers the appropriate forum to be the ACO in London.

2. The MTTO gave reasons for a transfer to Leeds and gave the parties 7 days to file representations objecting to that course. The Claimant has not filed an objection to the transfer to Leeds. Nor have the Interested Parties.
3. The judicial review claim impugns the decision on 22 November 2021 by the Defendant’s Disciplinary Appeal Panel dismissing an appeal against the earlier decision (7.4.21) of the Disciplinary Panel. The Panel had found an unacceptable breach of a code of conduct by the Claimant and had imposed the sanction of withdrawal of approval and removal from a registered or a two year period of the Claimant. The Claimant’s position in the judicial review claim is summarised as being that the decision was unlawful, irrational, unfair and disproportionate. The claim includes the contention that there are “inherent flaws in the sanctions regime” operated by the Defendant. In my judgment, that and the other aspects of the claim, do not constitute “a substantial public interest element such that... the appropriate forum [is] the ACO in London”. In my judgment, the Claimant is right not to have maintained that position, in objections filed pursuant to the MTTO. There is no public interest consideration, arising out of the nature of the grounds for judicial review, of an extent or nature requiring the proceedings to be heard in London (or in any other particular locality).
4. The Defendant’s representations objecting to transfer submit as follows. (1) The Claimant’s preference as stated in Form N461 – subsequently confirmed to have been deliberate – was that the claim be heard in London. (2) The Defendant’s “one and only office” is situated in London and the Register, governance and compliance are all dealt with in London. (3) The Defendant’s solicitors and counsel are based in London. (4) The Claimant’s Counsel is based in London. (5) The project that resulted in the subject matter of this claim was in Luton, “proximate” to London.
5. I am not persuaded, by the points emphasised by the Defendant, that the present case has a “specific connection” to the London region rather than the Leeds region, so as to engage the principle that the claim should “if at all possible” be administered in determined in London. Nor do I accept that the “claim” is “most closely connected’ to the London region, having regard to its “subject matter”, the “location” of the Claimant and Defendant, and “otherwise”. The Claimant’s registered address is in Wakefield, West Yorkshire (WF2) and that is the “location of the claimant”. That is what the answer to the question on Form N461 ought to have identified. In my judgment, in the circumstances of the present case, this is a key feature in considering

“closest connection” of “the claim”. The Claimant’s preference – which I accept was conscious – was for London as a venue. But the reasons given were not convincing, as I have explained. It is true that the building project out of which the Panel proceedings arose was in Luton (as were related criminal proceedings); moreover, the panel hearings were convened from London, where the Defendant is based. I accept that there would be a greater ease and efficiency, and a reduced cost of travel, to a London hearing for those based in London. However, the nature and cost of travel from London to Leeds are not especially burdensome, in the context of the nature and subject matter of the present case. Moreover, as to travel, the Claimant is based in Wakefield, and the Claimant’s solicitors are in Liverpool. This claim can promptly and properly be administered and determined in Leeds. It is relevant that the Claimant has not filed written objections to the transfer to Leeds, having been given a Court-directed opportunity to do so. In my judgment, the closest connection – and in any event the appropriate venue – having regard to all the relevant circumstances, is Leeds, and the transfer there should proceed.

7.3.22