

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION
ADMINISTRATIVE COURT

Birmingham Civil Justice Centre
Priory Court
33 Bull Street
Birmingham B4 6DS

Date: 09/12/2022
Start Time: 15:04 Finish Time: 14:46

Before:

MRS JUSTICE STEYN

Between:

NATHANIEL ADAMS

Claimant

- and -

**THE PAROLE BOARD FOR ENGLAND AND
WALES**

Defendant

Mr Phillip Rule for the **Claimant**
No attendance by or on behalf of the **Defendant**

Approved Judgment

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MRS JUSTICE STEYN :

1. The Claimant is serving a five year determinate prison sentence for rape and other offences. His sentence ends on 26 February 2023. On 26 August 2020, he was released on licence halfway through his sentence. In light of allegations of domestic violence, made by a third party, the Secretary of State for Justice revoked his licence on 6 September 2021 and he was re-called to prison on 8 September 2021. On 9 November 2021, the police decided to take no further action in relation to those allegations. I note that they considered it at least possible that the allegations may have been malicious.
2. Although this claim for judicial review has been brought against both the Parole Board for England and Wales and the Secretary of State for Justice, the three grounds on which permission was granted each challenge the acts, omissions and decisions of the Parole Board, not the Secretary of State. Permission to pursue grounds 2 and 3, which were brought against the Secretary of State, was refused by Lavender J, on the papers and by Farbey J, on renewal. Accordingly, at this stage the Secretary of State is an interested party rather than a defendant and I amend his status accordingly.
3. The claimant challenges, first, the delay in listing an oral hearing and concluding the parole review. The claimant contends that the Parole Board failed to comply with its public law duty to complete his parole review within a reasonable time.
4. Secondly, the claimant challenges a decision of a duty member of the Parole Board made on 9 June 2022 refusing the claimant's application for expedition or prioritisation of the oral hearing in his case. The claimant contends that the 9 June decision was unlawful because the decision maker placed reliance on an irrelevant consideration and/or failed to consider obviously relevant matters; and for failure to provide adequate reasons.
5. The claimant has been represented by Mr Phillip Rule. The Parole Board filed summary grounds to assist the court but has not attended the hearing today. The Secretary of State also filed summary grounds but he too has not been represented today.

The facts

6. The claimant was, as I have said, re-called to custody on 8 September 2021.
7. On 29 September 2021, the claimant's Community Offender Manager ('COM'; a probation officer) reported that she did not support re-release at that point in time as the allegations leading to a re-call were still being investigated by the police.
8. On 4 October 2021, the claimant's solicitors made representations to the Parole Board inviting the board to consider making a release direction or to direct an oral hearing.

9. On 11 October 2021, the Parole Board received a dossier from the Public Protection Casework Section ('PPCS') regarding the Claimant. The PPCS informed the Parole Board that there was an ongoing investigation into the claimant by the police.
10. On 29 October 2021, the Claimant's case was sent for Member Case Assessment ('MCA'). MCA is a form of triage undertaken by the Parole Board. Each case is considered at the earliest possible opportunity by an accredited MCA member who determines whether the case can be concluded on the papers or whether an oral hearing is necessary and, where appropriate, sets out additional steps that are needed for the matter to be determined fairly and swiftly. In this case the MCA is dated 8 November 2021 but it is evident that it must have been made at least a day and perhaps a week later as the member was aware of the decision of the police to discontinue the investigation, which decision was made on 9 November 2021. The Parole Board states it received the MCA on 17 November 2021.
11. In the MCA, the Parole Board member:
 - i) Directed an oral hearing be listed for three hours and 15 minutes before a panel of two members. A specialist member was not required and the member indicated the case was suitable for a remote hearing by telephone or video platform.
 - ii) Directed that a post-programme report (i.e. a report following the claimant's completion of the Kaizen accredited programme) was required by 10 January 2022. That was a pre-existing report which was required to be added to the Parole Board's dossier.
 - iii) Directed that the Community Offender Manager provide an update to the report of 29 September 2021 no later than four weeks before the hearing, specifying various matters (including the claimant's progress) that the update was required to address.
 - iv) Directed that the Community Offender Manager and the prison offender manager were required to attend the hearing and should be asked to provide their non-availability dates within two weeks. (Both witnesses provided their dates to avoid on 17 November 2021.)
 - v) Finally, he indicated "[t]his case is ready to list". Paragraph 11.95 of the member case assessment guidance March 2022 V1.1 states:

"The rule is that any case that will be ready to hear within the next three months is ready to be listed because the listings team usually operates three months ahead. Any case which is likely to take longer than three months to be ready to hear for any reason is 'not ready' to be listed."
12. The case was subsequently assessed by a Parole Board caseworker as being suitable for the Determinate Re-call Review (DRR) process. In short, the DRR process, which was introduced during the Covid-19 pandemic, aims to

streamline and speed up decision-making in cases where determinate sentence prisoners have been re-called by assessing whether there was sufficient information, or sufficient information could be obtained, for the matter to be determined on the papers. Or whether there could be any alteration to the logistics of the oral hearing, such as the length of hearing or the number of panel members, to enable it to be listed earlier.

13. The claimant's solicitors were invited to make representations on the DRR process, and they duly did so on 17 February 2022, inviting the panel to direct an addendum report be provided by the COM as soon as possible.
14. Following the DRR a Parole Board member made further MCA directions on 7 March 2022, issued on 11 March 2022, maintaining the original MCA directions, including the determination that the case required an oral hearing, and that the COM needed to provide an updated report, and adding a direction requiring a police report no less than four weeks before the hearing.
15. The Parole Board's summary grounds state:

“At this stage it appears that an administrative error was made at the Parole Board. It appears that after this decision by the member carrying out a DRR exercise the case was mistakenly treated like a fresh MCA case the effect of which was that the case was treated as if it was a fresh case for listing purposes. It is possible that this is due to the way the case status was updated on the Parole Board's case management system, so that the case manager did not realise that it had already spent some months waiting for an oral hearing to be listed.”

The Parole Board case manager had previously requested dates to avoid from the parties for the period February to August 2022. As a result of this administrative error the parties were asked to provide dates to avoid for the period June to December 2022. In other words, the listing of the claimant's review was pushed back by four months as a result of an administrative error on the part of the Parole Board. In response to this fresh request the witnesses returned their dates on 25 March 2022. On 16 March 2022, the claimant's solicitors completed a stakeholder response form v5 ('SRF5'), the form by which a party can seek case management directions from a member. In that SRF5 the claimant's solicitors requested an updated COM report as soon as possible. On 1 April 2022, a Parole Board member varied the directions to require the COM's updated report to be provided by 13 May 2022. It is apparent from the directions given on 1 April that the member recognised the need for expedition.

16. On 5 May 2022, the PPCS requested an extension to which the claimant did not object and the member extended the deadline for the updated COM report to 3 June 2022. However, the COM update was in fact provided on 12 May 2022. In granting the extension the member referred to the delays and stated that, save in exceptional circumstances, there would be no further extensions granted.

17. On 6 May 2022, the claimant's solicitors requested that the case be expedited. In support of the application they stated:

“Mr Adams was re-called to custody on 6/9/21. The matter was sent to OH on the 17/11/21. The matter still has no listing. Given dates are now being fixed in August. This means Mr Adams faces an interval of at least a year in being able to seek re-release. Given the fact that Mr Camilis [sic] in the event of not challenging his initial re-call, would now be facing a second review, let alone a first, the hearing, we submit, must now be expedited. We are aware of other recall cases that have been listed for hearings which were sent to OH up to six weeks after Mr Adams, unlike his. We therefore say it is only right that Mr Adams['] case is now expedited or given priority listing in the alternative.”

18. Before that application for expedition was determined, on 12 May 2022 the updated COM report was provided in which the Community Offender Manager supported re-release on the basis of a robust risk management plan, including an initial period of residency in approved premises following release. The report noted an approved premises placement was being sought but had not yet been accepted. On 24 May 2022, the claimant's representatives submitted a further SRF5 asking the Parole Board to consider release on the papers in light of the updated COM report.

19. The 24 May application was considered first by the duty member who decided on 8 June 2022 that the issues required exploration at an oral hearing and so rejected the application for release on the papers. The duty member observed:

“The duty member is aware that an SHRF with an application for Mr Adams' hearing to be expedited or prioritised has been submitted for a Duty Member decision. This Duty Member is not aware of the outcome.”

20. The Parole Board took over a month to consider the application for expedition. On 9 June 2022, another Duty Member determined the 6 May application for expedition stating:

“The Duty Member has carefully considered this application. However, given the volume of cases seeking expedited hearings, he has concluded that the application set out above does not provide a suitable reason to expedite or prioritise Mr Adams' case.”

It is this decision which the claimant challenges in these proceedings along with the delay in concluding the parole review.

21. Following pre-action correspondence in accordance with the pre-action protocol, this claim was lodged on 9 September 2022. Permission was granted on three grounds by Lavender J, on 5 October 2022. The same day the claimant's representatives submitted a further SRF5 to the Parole Board seeking an expedited hearing or a direction for prioritisation in light of the delay and the

revelation that an administrative error has resulted in this case being put to the back of the queue for five months.

22. The application was determined the following day by a Duty Member who stated that it was “unclear why Mr Adams has not yet been listed for an oral hearing, but given his SED [sentence expiry date] is 26/02/23, the only way he will now get an oral hearing is through it being expedited or prioritised”. The Duty Member considered that the case could not be concluded on the papers and agreed that it “should be expedited if possible or prioritised as a secondary option”, leaving it to a listings team to accommodate the hearing at the earliest opportunity. The Duty Member also determined that, as the claimant was no longer facing any charges, and has been on licence for over a year, the hearing could be converted to a single member panel hearing requiring a two hour listing. The Community Offender Manager was directed to provide by 13 October 2022 “a short memorandum confirming AP availability and location or, alternative, approved accommodation if this cannot be acquired before SED”. Such an updated report was not provided by that date.
23. On 7 October 2022, the oral hearing before the Parole Board was listed to be heard on 14 December 2022. On 13 October 2022, the claimant’s representatives submitted an SRF5 in which they sought the following directions:
 - “1. The COM to prepare a short addendum report to confirm any issues with [Mr Adams’ parents’ address] in the event that the panel are minded to direct immediate release to that address following the oral hearing scheduled on 14.12.22, that report to be submitted by 11.11.22, i.e. allowing approximately 28 days for that report.
 2. To cater for the possibility of the chair directing release to approved premises the Probation Service/SSJ to be directed to make such placement available within seven days of the hearing, i.e. a place within approved premises from 21 December 2022 onwards.
 3. That the panel confirm it would release any direction for release within 48 hours of the hearing taking place assuming that the hearing on 14.12.22 is effective and that all evidence required is before it on that day.
 4. That the period for reconsideration under section 28A Parole Board Rules 2022 as amended is amended to five days from the date of decision of the panel as per direction 3.”
24. The Panel Chair determined the application on 20 October 2022, directing the COM to prepare a short addendum report, to be submitted by 11 November 2022, to confirm any issues with the claimant’s parents’ address in the event the Panel are minded to direct release to that address following the oral hearing; and identifying a date, prior to the SED, when an approved premises place will be available. The direction stated, “For the avoidance of doubt the panel must be

able to consider a clear release plan with accommodation proposals so that the test for release can be considered fully and fairly.” With respect to the second, third and fourth directions sought by the claimant, the Panel Chair stated:

“2. In respect of point 2 above the COM has been directed to provide an AP date. However, the date of release is a matter for the Secretary of State and not the Parole Board. It is a matter for Mr Adams if he wishes to pursue this with the Secretary of State by a PPCF.

3. In respect of point 3 above the panel will issue its decision within a reasonable time frame and certainly well within the time allowed for the rules.

4. In respect of point 4 above Mr Adams’s case is a determinate re-call. He does not fall under reconsideration in the rules.”

I note that in relation to the last point it does not appear that the panel member in fact considered the application which was made in respect of Rule 28A of the Parole Board Rules as opposed to Rule 28.

25. An update was provided by the Community Offender Manager on 14 November 2022. The COM stated:

“An approved premises referral has been completed and, whilst Mr Adams has been accepted in principle, a bed space has not currently been confirmed as available... As an alternative, Mr Adams’ parents’ address... has been considered and the necessary police and safeguarding checks have been submitted. Mr Adams’ parents have confirmed that Mr Adams can reside with them on release and are supportive of him and will support adherence to licence conditions. A home visit to the address has taken place and a further visit will take place on release if release to the address is approved. No concerns have been received in respect of his parents’ address that would suggest it is not a suitable address.”

26. The Panel Chair made further directions on 25 November 2022, stating:

“It is unclear as to whether the COM is recommending an approved premises or Mr Adams’s parents’ address if release is directed. If an AP is considered to be necessary a date for a bed must be available to the panel at the oral hearing. For the avoidance of doubt this is a judicial direction and the necessary information must be provided by stakeholders to enable the COM to comply with the direction. ...”

Mr Rule informs me that direction has not yet been complied with. In accordance with the listing given on 7 October, the Parole Board hearing is due to take place in five days’ time, on 14 December.

Ground 1: alleged failure to act within a reasonable time

27. The Parole Board exercises a judicial decision-making function in conducting parole reviews. It is common ground that in undertaking a parole review the Parole Board has a common law duty to act within a reasonable time. In *R (Youngsam) v. Parole Board* [2017] EWHC 729 (Admin) Turner J, held at [41] to [43]:

“41. There is no dispute that even if, as I have found, article 5.4 has no application to the circumstances of the instant case, there still exists a common law duty, breach of which is susceptible to judicial review. As Lord Reed JSC pointed out in *R (Osborn) v. Parole Board* [2014] AC 1115:

’57. ... The [Human Rights Act 1998] also provides a number of additional tools enabling the courts and government to develop the law when necessary to fulfil those guarantees, and requires the court to take account of the judgments of the European Court. The importance of the Act is unquestionable. It does not however supersede the protection of human rights under the common law or statute or create a discrete body of law based on the judgments of the European Court. Human rights continue to be protected by our domestic law, interpreted and developed in accordance with the Act when appropriate.’

42. Indeed, some have traced back the origins of the common law duty in the type of case presently under consideration to Magna Carta 1297, chapter 29 of which still carries the force of law:

‘No freeman shall be taken or imprisoned or be disseised of his freehold, or liberties, or free customs, or be outlawed, or exiled, or any other wise destroyed; nor will we pass upon him, nor condemn him, but by lawful judgment of his peers, or by the law of the land. We will sell to no man, we will not deny or defer to any man either justice or right.’

43. 800 years on, I am satisfied that the enduring common law obligation of central relevance to this claim is in a modern context one to act within a reasonable time. However, the issue of what is or is not reasonable in any given case is bound to be particularly fact sensitive. For example, where, as here, the liberty of the subject is involved a more stringent standard will be applied than if this were not the case. On the other hand, it is not every departure from the ideal that will operate so as to give rise to a breach of the public law duty. Delays which may be fairly categorised as merely undesirable or as resulting from no more than a failure to reach the best standards are not necessarily and in all cases unlawful.”

28. It is also well established that listing is a judicial function (see, for example, *R (McKenzie) v. Leeds Crown Court* [2020] EWHC 1867) (Admin) at 21).
29. The short issue is whether, in light of the facts that I have outlined, the Parole Board has failed to act within a reasonable time. In my judgment, the clear answer is that the Parole Board has breached that common law duty. The stark facts are that the claimant was re-called to prison one year and three months ago and he has not yet had a parole review hearing. A member of the Parole Board determined more than a year ago that the case was ready to list. The MCA Guidance paragraph 11.95 indicates that that meant the case was at least ready to be heard within three months. In this case the directions required reports to be provided 28 days before the hearing. There was also a direction for a report to be provided by 10 January 2022, but that was no more than a requirement to add a pre-existing report written in August 2020 to the Parole Board dossier. In reality, this case was ready to be heard in January 2022, that is 11 months ago.
30. Although it is true that the Parole Board has made further directions for reports since then those case management decisions do not explain any part of the delay. Deprivation of liberty is no small thing. The claimant had a right to a timeous hearing to determine whether he should be released. The delay in this case is only partially explained, but not justified, by the administrative error that caused the claimant's case to be put to the back of the queue for four months. The only other explanation for the delay appears to lie in the Parole Board's lack of capacity to accommodate all the cases which were awaiting a hearing due to a surge in case numbers and an insufficiency of members available to hear them. Insofar as the delay may be due to operational or resourcing issues (in terms of a shortage of members, it appears, as opposed to financial resources), that is not a lawful excuse or answer such as to justify otherwise unreasonable delay. That that is so is clear in the context of Article 5.4: see, for example, *Noorkoiv v. Secretary of State for the Home Department and Parole Board* [2002] 1 WLR 3284. And it seems to me that in this regard the common law provides the same level of protection for liberty.
31. The question arises whether the claim is academic, given that on 6 October 2022 the Parole Board granted expedition or prioritisation with a view to the hearing being listed as soon as possible, and the following day the oral hearing was listed for 14 December 2022. However, it is inherently likely that in any case where a claimant challenges delay in listing a Parole Board hearing, if permission is granted on that ground the Parole Board is likely, quite properly, to respond by prioritising the hearing. In my judgment, in this case it is appropriate for the court to make a finding that the common law duty to undertake a parole review within a reasonable time has been breached, not least as, in circumstances where that review has not yet occurred, and the Claimant remains in prison, such a finding is likely to encourage the Parole Board and the Secretary of State to ensure the process is now concluded swiftly.
32. Mr Rule also urges me to determine the length of the unlawful delay in this case. The essential reason he gives is that, although there is no pleaded claim for damages, it is possible that the claimant might at some future stage pursue such a claim. I do not consider that it would be appropriate in these proceedings to

determine the date by which an oral hearing of the Parole Board should have taken place. There is no damages claim before me. This aspect of the application is not apparent from the pleaded case and it seems to me that, if a damages claim were to be brought, the Parole Board and/or the Secretary of State might well wish to make submissions as to the date by which as a matter of law a hearing should have been held. It is sufficient for the purposes of this ground to find that there was unlawful delay on the part of the Parole Board. It is unnecessary to put an exact figure on the period of delay but I will say that the claimant's detention should have been subject to parole review far earlier than it is now due to be.

Grounds 4 and 5: decision of 9 June refusing expedition or prioritisation

33. By grounds 4 and 5 of the claim the claimant challenges the decision of 9 June to refuse his application for expedition or prioritisation. The difference between those is explained in the MCA Guidance at paragraphs 11.87 and 11.88. Those paragraphs provide:

“Prioritising a case is asking the listings team to give the case priority in the next listings exercise. Expediting a case is asking the listings team to list the case as soon as possible and perhaps with a freshly commissioned panel deployed at short notice.”

34. By the time the application was made the claimant had spent nine months in prison since his recall. The police investigation into the allegations that had prompted revocation of his licence had been completed seven months earlier, with a decision made to take no further action, and at approximately the same time a Parole Board member had directed that the case was ready to be listed.
35. The only reasons given for refusing expedition or prioritisation were, first, the volume of cases seeking expedited hearings and, second, the application did not provide a suitable reason to expedite. In my judgment, the fact that there are a large number of applications for expedition is irrelevant in determining whether expedition or prioritisation is warranted in a particular case. The volume of cases, *per se*, says nothing about the relative merits of those applications and fails to address the question whether expedition is required in the particular case in order to ensure compliance with the Parole Board's common law duty to undertake a review within a reasonable time.
36. In my view, the reasons for a decision of this nature can properly be stated shortly. If it were the case that the claimant had put forward no reason capable of justifying expedition, I accept that it would have been sufficient to say so. It is also fair to say that the application of 6 May misstated the claimant's name at one point, could have been better expressed and, as it pre-dated the updated COM report it did not draw attention to the Community Offender Manager's support for release. Nevertheless, in that application the points were clearly made, first, that, if the claimant's case was not expedited or prioritised, any oral hearing would be more than a year following his recall (i.e. the delay in listing an initial hearing was longer even than the period before an annual review, i.e. a second hearing, ought to be); and, secondly, that other later cases were being listed ahead of the claimant's case.

37. The first point could not be dismissed without any express consideration as not providing a suitable reason for expedition or prioritisation. The Parole Board listing prioritisation framework for oral hearings which, although undated, appears to have been published in April 2020, expressly recognises at the top of page 6 the “length of delay” can be a reason for prioritisation in re-call cases. The second point did not in itself warrant expedition or prioritisation as there could have been reasons why the other cases, of which the claimant’s representatives were aware, had been prioritised; but taken together with the first point, it indicated that the reason the claimant’s case had not yet been listed needed some investigation. Such investigation would likely have revealed the administrative error to which I have referred which would have provided a ground to expedite or prioritise the claimant’s case.
38. For these reasons I am satisfied that the decision not to expedite or prioritise the claimant’s case on 9 June 2022 was unlawful by reason of the failure to take into account relevant considerations or to give adequate reasons addressing those considerations and because an irrelevant consideration was taken into account.
39. As with ground 1, it may be said that grounds 2 and 3 have been rendered academic since the grant of permission to seek judicial review by the Parole Board’s decision of 6 October to grant expedition or prioritisation. For the reasons that I have given in respect of ground 1, I nevertheless consider that it is appropriate to make the findings that I have in relation to the 9 June decision.

Relief

40. The claimant invites me to grant a declaration that the hearing of his parole review has been unlawfully delayed and that the decision of 9 June 2022 was unlawful. I accept that it is appropriate to grant such relief, and I will do so.

41. The claimant also seeks:

“(c) An order that enables the Claimant to be released before Christmas:

i. the SSJ’s officers shall provide a date for a possible release to an Approved Premises that offers a placement to take effect on or before 23 December 2022 (i.e. before Christmas). The date shall be made available in advance to the Panel of the PB hearing the matter on 14 December 2022.

ii. the PB shall issue its decision no later than 16 December 2022 (i.e. within 48 hours of the parole hearing), and preferably sooner.

iii. The SSJ (if so advised) must make any application to set aside the PB’s decision (pursuant to Rule 28A of the Parole Board Rules, or otherwise) no later than 5 days from the date of the decision.

(d) *Alternatively*, if, despite the long delay to date, the Court deems the Claimant's preferred timetable to be too short to be effective, an order that:

i. the SSJ's officers shall provide a date for a possible release to Approved Premises that offers a placement to take effect on or before 4 January 2023 (i.e. within 28 days of the parole hearing), and preferably sooner. The date shall be made available in advance to the Panel of the PB hearing the matter on 14 December 2022.

ii. the Parole Board shall issue its decision no later than 19 December 2022 (i.e. within five days of the parole hearing), and preferably sooner.

iii. the SSJ (if so advised) must make any application to set aside the PB's decision (pursuant to Rule 28A of the Parole Board Rules, or otherwise) no later than five days from the date of the decision."

42. I am not prepared to grant this relief in either of the alternative forms sought. First, such relief was not sought in the Statement of Facts and grounds. It is true that the Claimant sought such relief as the court deems appropriate but it seems to me that relief of this nature ought to have been pleaded. In saying that I recognise that the Claimant did seek such relief as interim relief. Nevertheless, it is significant, in my judgment, that it is not part of the pleaded relief sought. Secondly, and more fundamentally, insofar as the Claimant seeks relief against the Secretary of State, as I indicated at the outset of this Judgment, he should no longer be a defendant to this claim as no decision, act or omission of his is challenged in the grounds on which permission has been granted. There is no claim that the Secretary of State has unlawfully failed to reserve the claimant a place in approved premises or that the Secretary of State should apply to set aside any Parole Board decision within a specific time frame; and so there is no basis on which the court could properly, in my view, give the relief sought against the Secretary of State.
43. However, I note the directions that the Panel Chair has given, in particular the direction on 25 November 2022 requiring the Community Offender Manager to specify whether they are recommending that approved premises are necessary and, if so, to specify the date on which a bed will be available. The Panel Chair made clear that is a judicial direction and the necessary information must be provided to stakeholders to enable the Community Offender Manager to comply with the direction. I make clear that this court also expects those directions of the Parole Board to be complied with. The Secretary of State has been on notice since 29 September 2021 of the need for a place in approved premises and, in view of the delay that I have identified, it is imperative that the hearing next week is effective.
44. I am also unprepared to order the Parole Board to issue its decision within 48 hours or five days of the hearing. The Parole Board has indicated that it will issue its decision within a reasonable time frame and "certainly well within the

time allowed for in the rules”. There is no challenge to the Parole Board’s decision refusing to make a direction that the decision will be made within 48 hours of the hearing and there is every reason to believe that the Parole Board will be fully alive to the need to give its decision speedily.

45. In the further alternative the Claimant seeks liberty to apply. In circumstances where the Parole Board has not yet determined the parole review and given the unlawful delay that I have identified, I accept that it is appropriate to grant liberty to apply.

Conclusion

46. For the reasons that I have given the claim succeeds on grounds 1, 4 and 5. I will hear counsel on the precise form of the order.

(This Judgment has been approved by the Judge.)