



**In the High Court of Justice  
Queen's Bench Division  
Administrative Court**

CO/3367/2020

**In the matter of an application for judicial review**

**THE QUEEN**

**on the application of**

**MS**

**Claimant**

**-and-**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

**Defendant**

**Notification of the Judge's decision on the application for permission to apply for judicial review (CPR 54.11, 54.12)**

Following consideration of the documents lodged by the Claimant and the Acknowledgement of service filed by the Defendant

And following consideration of the Claimant's application dated 25 January 2021 to adduce further evidence

**ORDER** by the Honourable Mrs Justice Steyn DBE

1. The application for permission to apply for judicial review is granted.
2. The application is to be listed for 1 day; the parties to provide a written time estimate within 7 days of service of this order if they disagree with this direction.
3. The Claimant has permission to rely on the witness statement of Heather Malunga dated 25 January 2021.
4. Pursuant to CPR 39.2(4), no person shall publish the Claimant's name and address, or any other information likely to identify the Claimant, in any report of these proceedings, without the leave of the Court. The Claimant is to be referred to by the initials 'MS'.

**Observations**

1. The grounds are arguable. Insofar as there is an evidential question regarding the alleged scarcity of free biometric tests, I consider that is a matter for the substantive hearing, particularly as the figures provided by the Defendant do not indicate how the numbers of free biometric tests compare to the level of demand from those eligible for

free tests or to the proportion of biometric tests for which a charge is made.

2. I have granted the application to adduce further evidence. The evidence is very limited. There is no prejudice to the Defendant in permitting it to be adduced. The Claimant would, in any event, be able to adduce it as reply evidence.
3. As the Claimant is a refugee who is the beneficiary of international protection recognising the ongoing threat to him in his home country, I consider that it is necessary to make an anonymity order pursuant to CPR 39.2(4).

### **Case Management Directions**

1. The Defendant and any other person served with the Claim Form who wishes to contest the claim or support it on additional grounds shall, within 35 days of the date of service of this Order, file and serve (a) Detailed Grounds for contesting the claim or supporting it on additional grounds, and (b) any written evidence that is to be relied on. For the avoidance of doubt, a party who has filed and served Summary Grounds pursuant to CPR 54.8 may comply with (a) above by filing and serving a document which states that those Summary Grounds shall stand as the Detailed Grounds required by CPR 54.14.
2. Any application by the Claimant to serve evidence in reply shall be filed and served within 21 days of the date on which the Defendant serves evidence pursuant to 1(b) above.
3. The parties shall agree the contents of the hearing bundle and must file it with the Court not less than **4** weeks before the date of the hearing of the judicial review. An electronic version of the bundle shall be prepared and lodged in accordance with the Guidance on the Administrative Court website. The parties shall, if requested by the Court lodge 2 hard-copy versions of the hearing bundle.
4. The Claimant must file and serve a Skeleton Argument not less than **21** days before the date of the hearing of the judicial review.
5. The Defendant and any Interested Party must file and serve a Skeleton Argument not less than **14** days before the date of the hearing of the judicial review.
6. The parties shall agree the contents of a bundle containing the authorities to be referred to at the hearing. An electronic version of the bundle shall be prepared in accordance with the Guidance on the Administrative Court website. The parties shall if requested by the Court, prepare a hard-copy version of the authorities bundle. The electronic version of the bundle and if requested, the hard copy version of the bundle, shall be lodged with the Court not less than **3** days before the date of the hearing of the judicial review.

7. If permission has been granted on some grounds but refused on others, the Claimant may request that the decision to refuse permission be reconsidered at a hearing by filing and serving a completed Form 86B within 7 days after the date this order is served on the Claimant. The reconsideration hearing will be fixed in due course. However, if all parties agree and time estimates for substantive hearing allow, the reconsideration hearing may take place immediately before the substantive hearing. The Administrative Court Office must be notified within 21 days of the service and filing of Form 86B if the parties agree to this course.

Case NOT suitable for hearing by a Deputy High Court Judge\*

Criminal case NOT suitable for hearing by a Single Judge\*

[\*Tick if applicable]

Signed  29.3.21

The date of service of this order is calculated from the date in the section below

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**For completion by the Administrative Court Office**

Sent / Handed to

**either** the Claimant, and the Defendant [and the Interested Party]

**or** the Claimant's, and the Defendant's, [and the Interested Party's] solicitors

Date:

Solicitors:

Ref No.

**Notes for the Claimant**

To continue the proceedings a fee is payable.

**For details of the current fee please refer to the Administrative Court fees table at <https://www.gov.uk/court-fees-what-they-are>.**

Failure to pay the fee or submit a certified application for fee remission may result in the claim being struck out.

The form to make an application for remission of a court fee can be obtained from the Justice website <https://www.gov.uk/get-help-with-court-fees>

You are reminded of your obligation to reconsider the merits of your claim on receipt of the defendant's evidence.