

IN THE HIGH COURT OF JUSTICE  
ADMINISTRATIVE COURT

CO/2710/2017  
CO/382/2018

BETWEEN:

THE QUEEN on the application of  
(1) MA  
(2) BB

Claimants

AND

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Defendant

AND

EQUALITY AND HUMAN RIGHTS COMMISSION

Intervenor



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ORDER

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Before Mrs Justice May DBE

**UPON Hearing** counsel Stephanie Harrison QC & Alex Goodman for the First Claimant MA, Nick Armstrong & Jesse Nichols for the Second Claimant BB, Lisa Giovannetti QC & Mr Julian Blake for the Defendant and Mr Dan Squires QC for the Intervenor on the 2<sup>nd</sup> and 3<sup>rd</sup> May 2019.

IT IS HEREBY ORDERED THAT:

1. MA and BB's claims for judicial review relating to the investigative duty under Article 3 ECHR are granted for the reasons set out in the judgment of the Court.
2. It is declared that, in order to satisfy the Secretary of State's investigative duty under Article 3 ECHR, the investigation into the mistreatment of detainees at Brook House Immigration Removal Centre must:
  - i. Have the power to compel the attendance of witnesses.
  - ii. Have the power and sufficient means to hold such public hearings as it considers are required to ensure compliance with Article 3 ECHR.

- iii. Make provision for properly funded legal representation at least to enable MA and BB to review and comment on witness evidence and to suggest lines of enquiry and questioning for relevant witnesses.
3. The Secretary of State shall, subject to paragraph 8 below, use all reasonable endeavours to secure compliance with paragraph 2 within 28 days and notify the parties in writing.
4. Further to the order of Whipple J dated 12 October 2018, the Defendant shall pay the Claimants' reasonable costs of the claim concerning the investigative duty under Article 3 ECHR from 12 October 2018 to be assessed if not agreed, 50% of those costs to be paid by the Defendant to the Claimants' legal representatives within 28 days from receipt of the bill of costs.
5. There shall be assessment of MA and BB's publicly funded costs to date.
6. There is no order as to costs in relation to the Commission.
7. The time for seeking permission to appeal against this order is extended to 4pm on the 21 June 2019 and any such application is to be made in writing. The Claimants to respond by 4pm 28<sup>th</sup> June 2019.
8. Paragraph 3 of the Order will be stayed pending determination of an application for permission to appeal pursuant to paragraph 7 above, or if an appellant's notice of appeal is filed, within 28 days of any determination of permission to appeal by the Court of Appeal, or if permission is granted, within 28 days of the determination of the appeal. If permission is not sought the 28 days referred to in paragraph 3 above runs from the 21 June 2019.
9. Liberty to apply

Date: 14 June 2019  
By the Court

Approved



*[Signature]*  
14.6.19