

IN THE HIGH COURT OF JUSTICE
ADMINISTRATIVE COURT

AC-2023-LON-001302



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B E T W E E N:

THE KING
on the application of

TREVOR DONALD

Claimant

-and-

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

Defendant

(1) BLACK EQUITY ORGANISATION

(2) UNISON

(3) SPEAKER OF THE HOUSE OF COMMONS

Interveners

ORDER

BEFORE the Honourable Mrs Justice Heather Williams DBE at a hearing on 23 and 24 April 2024

UPON hearing Phillippa Kaufmann KC, Grace Brown and Elaine Banton for the Claimant, Edward Brown KC and Sian Reeves for the Defendant, Nicola Braganza KC, Bijan Hoshi and Christian Davies for the Black Equity Organisation, Karon Monaghan KC and Eleanor Mitchell for UNISON

AND UPON reading the submissions of Saira Salimi submitted on behalf of the Speaker of the House of Commons

AND UPON the Court's reserved judgment handed down on 19 June 2024

IT IS ORDERED THAT:

1. The Claimant's claim for judicial review is allowed. Grounds 2, 3 and 5 of the claim for judicial review are allowed to the extent identified in the Court's judgment. Grounds 1 and 4 of the claim for judicial review are dismissed.

AND THE COURT DECLARES THAT:

2. The Defendant's decision of 07 December 2022 to not proceed with the Comprehensive Improvement Plan response to (i) Recommendation 9 of the Windrush Lessons Learned Review ("WLLR") to introduce a Migrants' Commissioner, and (ii) Recommendation 10 of the WLLR to review the remit and role of the Independent Chief Inspector of Borders and Immigration, indirectly discriminates against Windrush victims, in contravention of the Claimant's rights under article 14 of the European Convention on Human Rights, read with article 8.
3. The Defendant's decision of 07 December 2022 to not proceed with the Comprehensive Improvement Plan response to (i) Recommendation 9 of the Windrush Lessons Learned Review ("WLLR") to introduce a Migrants' Commissioner, and (ii) Recommendation 10 of the WLLR to review the remit and role of the Independent Chief Inspector of Borders and Immigration, breached a procedural legitimate expectation by failing to consult with relevant stakeholders.
4. The Defendant's decision of 07 December 2022 to not proceed with the Comprehensive Improvement Plan response to (i) Recommendation 9 of the Windrush Lessons Learned Review ("WLLR") to introduce a Migrants' Commissioner, and (ii) Recommendation 10 of the WLLR to review the remit and role of the Independent Chief Inspector of Borders and Immigration breached the public sector equality duty under s.149 of the Equality Act 2010.

AND IT IS FURTHER ORDERED THAT:

5. The Defendant's decision of 07 December 2022 to not proceed with the Comprehensive Improvement Plan response to Recommendations 9 and 10, made in the Windrush Lessons Learned Review, shall be quashed.
6. There shall be no order as to costs in respect of the Interveners.
7. The Defendant shall file submissions in respect of damages and costs by 4 pm on 3 July 2024.
8. The Claimant shall file submissions in response to the Defendant's submissions on damages and costs within 14 days of receipt of the Defendant's submissions.
9. Directions as follows:
 - (a) The hearing is adjourned for the purpose of determining any application for permission to appeal.
 - (b) A party wishing to appeal shall file and serve short submissions (if so advised), limited to 5 pages, by 4pm on 3 July 2024.

- (c) A party wishing to reply to the above shall file and serve a short reply to submissions, limited to 5 pages, within 7 days of receipt of the submissions in 9(b) above.
- (d) A decision on permission shall be made on the papers at an adjourned hearing (no attendance required) and communicated by order to the parties.
- (e) A party wishing to appeal to the Court of Appeal is granted an extension of time to file their Appellant's Notice which must be filed within 21 days of the date of the order made pursuant to paragraph 9(d) above.

19 June 2024