

IN THE HIGH COURT OF JUSTICE
ADMINISTRATIVE COURT

AC-2025-LON-001600

IN THE MATTER OF AN APPLICATION FOR PERMISSION TO APPLY FOR JUDICIAL
REVIEW

BETWEEN:-

The King on the application of:

R(on the application of HAL)

Claimant

-and-

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Defendant

STATEMENT OF REASONS

1. Article 4 of the European Convention on Human Rights ('ECHR') imposes a series of positive duties on the State in relation to human trafficking. Case law has established that the protection duty is engaged where "state authorities were aware, or ought to have been aware, of circumstances giving rise to a credible suspicion that an identified individual had been, or was at real and immediate risk of being, trafficking or exploited" (*Rantsev*, §286). This threshold has been described as "relatively low" (*TDT v SSHD* [2018] 1 WLR 4922) and will be met where the victim's account is "not inherently implausible" (*CN v UK* (2013)).
2. The Defendant's current Modern Slavery Act Statutory Guidance ("MSASG") was amended in July 2023, following litigation, to ensure consistency with this established case law. The amendment removed prior wording that had required decision-makers to rely on "objective factors" at the reasonable grounds stage. The removed section had stated: "*The decision maker must agree with the statement that there are*

'reasonable grounds to believe, based on objective factors but falling short of conclusive proof, that a person is a victim of modern slavery (human trafficking or slavery, servitude, or forced or compulsory labour)'. A decision maker must base their decision on objective factors to have real suspicion and therefore meet the RG threshold. An 'objective' factor is a piece of information or evidence that is based in fact. Ordinarily, a victim's own account, by itself, would not be sufficient absent objective factors to have real suspicion.'

3. Despite the amendment to the MSASG, similar wording referring to an “objective evidence” threshold has remained in the Defendant’s Standard Operating Procedure (SOP) issued to its caseworkers. The SOP sets out circumstances in which negative reasonable grounds decisions may be issued, specifically where the potential victim “does not meet the required threshold,” interpreted as a failure to provide sufficient “objective evidence” to support their account.
4. As a result of the judicial review brought by the Claimant, the Defendant has acknowledged that the SOP contains outdated sections which require amendment. The Defendant has further confirmed that, notwithstanding the current wording of the SOP, she is not applying an unlawful threshold in reasonable grounds decisions. She has acknowledged that, since the July 2023 amendment, the MSASG no longer requires reliance on ‘objective evidence’.
5. The Defendant has also confirmed that the SOP will be amended to remove any outdated references to an unlawful threshold and has provided assurance that notwithstanding these outdated references, she does not apply an “objective evidence” requirement.
6. The Defendant recognises that under its current MSASG, she cannot restrict the making of positive reasonable grounds decisions solely on the absence of “objective evidence” and has no intention of restricting Reasonable Grounds decisions on this basis under the current MSASG.