



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

CO/199/2022

In the matter of an application for judicial review

THE QUEEN

on the application of

GOOD LAW PROJECT

-and-

Claimant

**SECRETARY OF STATE FOR BUSINESS ENERGY
AND INDUSTRIAL STRATEGY**

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

ORDER by the Honourable Mr Justice Cotter

1. The application for permission to apply for judicial review is granted.
2. The application for specific disclosure is refused
3. The application is to be listed for 1.5 days the parties to provide a written time estimate within 10 days of service of this order if they disagree with this direction.
4. The claim is an Aarhus Convention Claim and the limits upon recoverable costs set out in CPR45.43 (2) (b) and (3) and (4) shall apply to the parties save that the limit for the recoverable costs against the Defendant shall be £55,000 in total in respect of the three claims CO/199/2022, CO/163/2022 and CO/126/2022
5. Liberty to apply to vary or set aside paragraphs 2 and 4 of this order, any application to be made within 10 days of the date of this order.

Observations

The claims CO/199/2022, CO/163/2022 and CO/126/2022 each seek to challenge the publication on 19 October 2021 of the Net Zero Strategy;

Build Back Greener by the Secretary of State for Business, Energy and Industrial Strategy, in purported compliance with his duties under sections 13 and 14 of the Climate Change Act 2008.

Both the grounds advanced in this claim are arguable, with a realistic prospect of success, and merit investigation at a full hearing.

It is necessary for the three claims to be managed in a proportionate and cost effective matter given the significant degree of overlap between the grounds advanced.

The defendant should address the all the grounds in the three cases within a single set of detailed grounds

The time estimate of 1.5 days is based on the requirement that the Claimants liaise as to the presentation of the claims. There should be a single skeleton argument to cover

CO/199/2022 both grounds

CO/163/2022 both grounds and

CO/126/2022 grounds one, two and three

Ground 4 in CO/126/2022 can be addressed in an additional short skeleton

As for disclosure, given the issues in dispute between the parties essentially concern statutory interpretation, in particular whether a section 14 report is required to contain a quantification of expected emissions reductions, I am not satisfied, at this stage, of the need for specific disclosure. However in preparation of the full grounds of defence and evidence the Defendant should consider the need to provide any information prepared and/or presented to and/or otherwise relied on by the Defendant other than set out within the report (in particular in support of the assertion that regard was had to a quantitative assessment of quantification and timescales and/or the emission savings from some of the individual proposals and policies and also any argument under s31(3C) and s31(2A) of the Senior Courts Act 1981).

The claim is unarguably an Aarhus Convention Claim and the limits upon recoverable costs set out in CPR45.43 (2) (b) and (3) and (4) shall apply to the parties. However given the scope of the challenge (with substantial co-operation between the Claimants) and the matters set out in the application in CO/163/2022 in relation to the expense to the Claimant, it is necessary and just that the limit for the recoverable costs against the Defendant should be increased to £55,000 in total in respect of the three claims CO/199/2022, CO/163/2022 and CO/126/2022.

Case Management Directions

1. The claims CO/199/2022, CO/163/2022 and CO/126/2022 shall be managed and heard together and these case management directions apply to each of the cases

2. 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. As set out above there should be a single document to address the three claims. 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.
3. 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.
4. 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. Careful consideration should be given to limiting the content to what is necessary. The further Permission Bundle of some 2,814 pages in CO/163/2022 referred to only incidentally in the SFG or the witness statement far exceeds what is necessary for the Court to determine the application.
5. 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.
6. The Claimant must file and serve a skeleton argument not less than 21 days before the date of the hearing of the judicial review. As set out above there should be a single skeleton argument to cover the grounds in CO/199/2022 and CO/163/2022 and grounds one, two and three in CO/126/2022. Ground 4 in CO/126/2022 can be addressed in an additional short skeleton
7. The Defendant and any Interested Party must each file and serve a single skeleton Argument to cover all grounds in the three claims not less than 14 days before the date of the hearing of the judicial review.
8. 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.

Case NOT suitable for hearing by a Deputy High Court Judge



Signed Mr Justice Cotter

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

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: 01/03/2022

Solicitors: BAKER MCKENZIE LLP
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.