

CO/6911/2003

Neutral Citation Number: [2004] EWHC 564 (Admin)  
IN THE HIGH COURT OF JUSTICE  
QUEEN'S BENCH DIVISION  
THE ADMINISTRATIVE COURT

Royal Courts of Justice  
Strand  
London WC2

Friday, 27 February 2004

BEFORE:

MR JUSTICE DAVIS

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THE QUEEN ON THE APPLICATION OF W

(CLAIMANT)

-v-

THE LEGAL SERVICES COMMISSION

(DEFENDANT)

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(Official Shorthand Writers to the Court)

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MR R GORDON QC AND MR M CHAMBERLAIN (instructed by Alexander Harris)  
appeared on behalf of the CLAIMANT

MR R JAY QC AND MISS J CONNORS (instructed by Legal Services Commission)  
appeared on behalf of the DEFENDANT

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J U D G M E N T  
(As Approved by the Court)

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1. MR JUSTICE DAVIS: As is widely known, a group of parents has commenced legal proceedings against various drug companies alleging that brands of measles, mumps, rubella (MMR) and measles rubella (MR) vaccines have caused damage to their children. Among the consequences alleged to have been so caused are autism spectrum disorder and inflammatory bowel disease.
2. The proceedings were commenced in 1998 and were legally aided. Several lead cases involving autism spectrum disorder and inflammatory bowel disease were selected for a trial and ultimately an eventual trial date of April 2004 was allocated.
3. In September 2003, the Legal Services Commission decided to cease further legal funding to the claimants and indicated that the legal aid certificates would be discharged. An appeal from that decision was made by the claimants and that appeal was dismissed by a Funding Review Committee on 30 September 2003.
4. No further right of appeal is by statute permitted but the claimants have sought to challenge the validity of the decision of the Funding Review Committee by commencing proceedings for judicial review. It was claimed that the decision of the Funding Review Committee was irrational, disproportionate, insufficiently reasoned and involved procedural unfairness.
5. The hearing before me of the claim for judicial review took place over three days last week. Because much of the material put before me is confidential and the subject of litigation privilege, it was necessary, as all counsel appearing before me agreed, for the hearing to be held in private. For similar reasons, the judgment which I have just delivered this afternoon necessarily has had to be delivered in private.
6. The MMR litigation, as it is called, has attracted public interest. I think it only right in the circumstances to state in public the outcome of my judgment, even though it is not possible for me to state in public my full reasons.
7. At the conclusion of the judgment that I have just delivered, I said this:

"It follows that this claim for judicial review fails. In my view, the decision of the FRC was proportionate; it was rational; it took into account the relevant considerations; it was sufficiently reasoned; and there was no procedural unfairness. None of the various public law challenges that have been advanced have been made good.

I well appreciate that the decision to withdraw legal aid will have caused great dismay to the parents of the claimants, who will always have believed, or will have come to believe, that the MMR and MR vaccines have caused ASD in their children. But the FRC was obliged to be dispassionate in its assessment of the matter as things stood before it. Since the FRC, in my judgment, reached a conclusion that it was entitled to reach for reasons that it was entitled to hold, I dismiss this claim."

8. Accordingly, the decision to withdraw legal aid funding from the claimants stands. Are there any other matters, Mr Jay?

MR JAY: My Lord, no.

9. MR JUSTICE DAVIS: Mr Chamberlain, are there any other matters?

10. MR CHAMBERLAIN: My Lord, no.

11. MR JUSTICE DAVIS: May I express my thanks to counsel, and could you please pass that on to Mr Gordon also. I was very impressed by the quality of submissions put before me. Thank you all very much. The Court will rise.

(The Court stood adjourned)