



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

CO/16/2018

In the matter of an application for Judicial Review

THE QUEEN

on the application of

- (1) **PLAN B EARTH**
 - (2) **CARMEN THERESE CALLIL**
 - (3) **JEFFREY BERNARD NEWMAN**
 - (4) **JO-ANNE PATRICIA VELTMAN**
 - (5) **LILY MEYNELL JOHNSON**
 - (6) **MAYA YASMIN CAMPBELL**
 - (7) **MAYA DOOLUB**
 - (8) **PARIS ORA PALMANO**
 - (9) **ROSE NAKANDI**
 - (10) **SEBASTIEN JAMES KAYE**
 - (11) **WILLIAM RICHARD HARE**
 - (12) **MB**
(a child, by his mother and his litigation friend, DB)
- Claimants**

versus

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

Defendant

THE COMMITTEE ON CLIMATE CHANGE

Interested Party

**Application for permission to apply for Judicial Review
NOTIFICATION of the Judge's decision (CPR Part 54.11, 54.12)**

Following consideration of the documents lodged by the Claimants and the Acknowledgements of service filed by the Defendant and Interested Party;

Order by the Honourable Mrs Justice Lang DBE

1. Permission to apply for judicial review is hereby refused.
2. This is an Aarhus Convention claim within the meaning of CPR 45.41. In accordance with the costs limits in CPR 45.43 & PD 45.5:
 - a. The First Claimant's liability for the costs incurred by the Defendant and Interested Party is limited to a total of £10,000;
 - b. The liability of the Second to Twelfth Claimants for the costs incurred by the Defendant and Interested Party is limited to a total of £5,000 for each Claimant;
 - c. The Defendant's liability for the costs incurred by the Claimants is limited to £35,000 in total;
 - d. The Interested Party's liability for the costs incurred by the Claimants is limited to £35,000 in total.
3. The Defendant's costs of preparing the Acknowledgment of Service are to be paid by the Claimants to the Defendant in the sum of £11,099. The Claimants are jointly and severally liable for the costs, subject to the costs limits in paragraph 1. This order will take effect unless, within 14 days, the Claimants notify the Court that they object to paying costs, or as to the amount to be paid, in either case giving reasons. If the Claimants do so, the Defendant has a

further 14 days to respond to both the Court and the Claimants and the Claimants have the right to reply within a further 7 days, after which the claim for costs is to be put before a Judge to be determined on the papers.

4. The Interested Party's costs of preparing the Acknowledgment of Service are to be paid by the Claimants to the Interested Party in the sum of £3,290. The Claimants are jointly and severally liable for the costs, subject to the costs limits in paragraph 1. This order will take effect unless, within 14 days, the Claimants notify the Court that they object to paying costs, or as to the amount to be paid, in either case giving reasons. If the Claimants do so, the Interested Party has a further 14 days to respond to both the Court and the Claimants and the Claimants have the right to reply within a further 7 days, after which the claim for costs is to be put before a Judge to be determined on the papers.
5. Where the Claimants seek a reconsideration of the application for permission the costs orders in paragraphs 3 and 4 above will be final unless the Claimants file the written representations referred to above, or further order is made by the Court, either at a permission hearing or as a consequence of the parties settling the claim and reaching agreement as to costs.

Reasons

The claim alleges that the Secretary of State has unlawfully failed to revise the 2050 carbon target pursuant to the Climate Change Act 2008 ("the Act").

In my view, the Claimants' grounds do not meet the permission threshold.


Ground 1: it is unarguable that the Secretary of State is in breach of section 2 of the Act. It confers a discretionary power, not a duty.

Ground 2: it is unarguable that the Secretary of State has misinterpreted the terms of the Paris Agreement. The Claimants appear to have misread the advice given by the independent Committee on Climate Change.

Ground 3: the Secretary of State's position cannot properly be characterised as irrational. Grounds 1 and 3 are an impermissible challenge to the Secretary of State's discretionary judgment.

Ground 4: the Claimants have no prospect of establishing that the Secretary of State's position is a breach of their human rights. Moreover, the UK Government enjoys a wide margin of appreciation on policy issues such as this one.

Ground 5: the impact of climate change, including the heightened impact on certain groups in society, has been the subject of considerable investigation and assessment by the Interested Party and the Defendant, and it underpins the exercise of Defendant's ongoing statutory functions under the Act. The Claimants have not established any arguable case that the public sector equality duty has been breached.

Signed:  14.2.18

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

Sent / Handed to the Claimant, Defendant and any Interested Party / the Claimant's, Defendant's, and any Interested Party's solicitors on (date): 15 FEB 2018

Solicitors: BINDMAN'S LLP
Ref No:

Notes for the Claimant

If you request the decision to be reconsidered at a hearing in open court under CPR 54.12, you must

complete and serve the enclosed FORM (86B) within 7 days of the service of this order. A fee is payable on submission of Form 86B. ***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>



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The Queen on the application of

PLAN B EARTH and Others

versus SECRETARY OF STATE FOR BUSINESS ENERGY AND
INDUSTRIAL STRATEGY

Notice of RENEWAL of claim for permission to apply for Judicial Review (C P R 54. 12)

1. *This notice must be lodged in the Administrative Court Office, by post or in person and be served upon the defendant (and interested parties who were served with the claim form) within 7 days of the service on the claimant or his solicitor of the notice that the claim for permission has been refused.*
2. *If the claim was issued on or after 7 October 2013, a fee is payable on submission of Form 86B. Failure to pay the fee or lodge a certified Application for Fee remission may result in the claim being struck out. The form for Application for Remission of a Fee is obtainable from the Justice website <http://hmctsformfinder.justice.gov.uk/HMCTS/FormFinder.do>*
3. *If this form has not been lodged within 7 days of service (para 1 above) please set out below the reasons for delay:*
4. *Set out below the grounds for seeking reconsideration:*

5. *Please supply*

COUNSEL'S NAME:

COUNSEL TELEPHONE NUMBER:

Signed

Dated

Claimant's Ref No.

Tel.No.

Fax No.

To the Administrative Court Office, Royal Courts of Justice, Strand, London, WC2A 2LL

FORM 86B

RECEIVED
16 FEB 2018