



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

**CO/126/2022**

**In the matter of an application for judicial review**

**THE QUEEN**

**on the application of**

**FRIENDS OF THE EARTH LIMITED**

**Claimant**

**-and-**

**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 (including the reply) 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 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.
3. 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 paragraph 3 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.

The four 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

The Claimant relies on the witness statement of Michael Childs, Head of Science, Policy and Research for the Claimant. He provides background information about the Claimant and explains the concerns about the Defendant's decision-making process and the lack of information provided. It is standard practice in a claim for judicial review for a Claimant to file a statement addressing these issues, and the Claimant does not rely upon Mr Child's statement as expert evidence. I see no basis for refusing permission to rely upon this statement at this stage. However, the Defendant can renew his submissions within the detailed grounds and/or before the Judge at the hearing.

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.

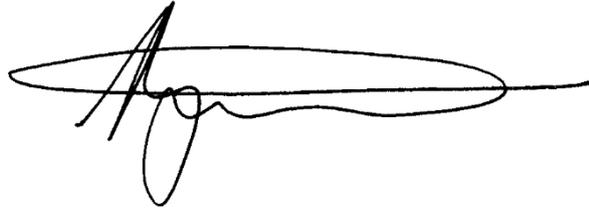
### **Case Management Directions**

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**

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**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: LEIGH DAY

Ref No. JBB/RWS/00170597/20

**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.