

CO/14787/2009

Neutral Citation Number: [2011] EWHC 862 (Admin)
IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
THE ADMINISTRATIVE COURT

Royal Courts of Justice
Strand
London WC2A 2LL

Wednesday, 16 March 2011

B e f o r e :

NEIL GARNHAM QC
(SITTING AS A DEPUTY HIGH COURT JUDGE)

Between:
THE QUEEN ON THE APPLICATION OF N_

Claimant

v

LONDON BOROUGH OF CROYDON_

Defendant

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WordWave International Limited
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165 Fleet Street London EC4A 2DY
Tel No: 020 7404 1400 Fax No: 020 7404 1424
(Official Shorthand Writers to the Court)

MR C BUTLER appeared on behalf of the **Claimant**
MR H HARROP-GRIFFITHS appeared on behalf of the **Defendant**

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

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1. **THE DEPUTY JUDGE:** I heard argument in this case yesterday and this morning. I set out the relevant background in a short judgment I gave yesterday morning on the defendant's application for an order that they be permitted to adduce out of time a report from Dr Stern. It is not necessary to repeat that background here.
2. It suffices for me to indicate that on Monday evening there was agreement between the parties that the claimant's date of birth could be treated as being 1 April 1995 but disagreement as to the form of the resulting order. The claimant sought a declaration that that was in fact his date of birth. The defendant declined to agree to any such declaration. In the circumstances, I indicated that I would need to be taken to the documentary evidence and to hear submissions on the point before I could say whether or not such a declaration would be appropriate. With the agreement of both counsel I indicated that if I found the declaration was appropriate I would make it, if I did not the case would have to be adjourned so that oral evidence could be heard.
3. The grant of a declaration cannot, in my view, be given as a matter of course, especially in circumstances such as the present when the declaration has potential effects on third parties who are not before the court. In the present case, for example, such a declaration may be of considerable significance in the claimant's dealings with the Home Office. Having heard the careful and skillful submissions of Mr Butler for the claimant, and Mr Harrop-Griffiths for the defendant, I am now in a position to reach a decision on this issue.
4. I deal first with three earlier decisions of the courts relevant to the matter before me which identify the principles. First, the Supreme Court decision in R(A) v London Borough of Croydon [2009] UKSC 8. That case concerned a point of principle whether a court, faced with a challenge to a local authority's decision under section 20(1) Children Act 1989, should exercise a review jurisdiction, and ask itself whether the local authority's decision was one properly open to it, or alternatively an original jurisdiction, and ask itself whether in fact the claimant was a child. Lady Hale, in a judgment with which the other members of the court agreed, said at paragraph 46 that:

"If live issues remain about the age of a person seeking accommodation under section 20(1) ... then the court will have to determine where the truth lies on the evidence available".

In other words, the court had to exercise an original jurisdiction and determine the precedent fact: was the claimant a child?

5. In F v Lewisham [2009] EWHC 3542 Holman J was considering an application for permission to apply for judicial review in a number of these cases. He had to adjudicate on competing contentions as to whether the effect of the judgment in A v London Borough of Croydon was limited to deciding whether the claimant was a child on a particular date or whether that judgment meant that in these cases the court would have to determine the claimant's date of birth. Holman J held, at paragraph 11:

"For the purpose of giving directions today I have identified the issue in

all these cases as being '... the case would be listed for a fact finding hearing to determine whether or not on the relevant date the claimant was a child and if so, his date of birth'".

He went on to hold in paragraph 16 that:

"It seems to me patent that in all these cases the standard of proof is the ordinary civil standard of a balanced probability."

6. That leads to the obvious question material for present purposes of how a court is to determine a date of birth of a child in circumstances such as these, and, more particularly, how it is to apply the balance of probability test usually employed in civil cases to determine facts to cases such as the present.
7. In MC v Liverpool [2010] EWHC 220 Langstaff J was faced with a similar question. At paragraph 5 of his judgment he referred to Holman J's decision in C and said this:

"At paragraph 16 Holman J made reference to the burden of proof. The standard of proof, he said, was the ordinary civil standard of balance of probability. I accept that. But he did not purport to determine upon whom the burden of proof lay. It seems to me ... that the process is one of assessment. It is not in reality choosing between one of two alternatives, one or other of which must represent the fact. A person's age, if it is to be assessed, can fall within a range".

8. On the facts of the case before him Langstaff J went on to say this at paragraph 19:

"I think that the best way of reflecting these imprecisions is to say that he should be taken as having an age 6-months younger than that which the local authority have assessed. It leaves the 24th of the month unchanged but makes it 24 September 1992. I appreciate that that almost certainly will not be his actual date of birth but, for the reasons I have given, on the evidence before me it is the evidence on which it is most fairly and properly, in my view, to be assessed."

9. If I may say so, with respect, Langstaff J accurately identifies the problem in these cases and suggests a proper solution. A court faced with a question like this is not in truth considering whether it has been shown on the balance of probabilities that a particular date is the true date of birth. The likelihood will be that, if there is a possible range of birth dates, which ever one is selected will, on the balance of probability, not be the correct one. In other words, in such circumstances it will be more likely than not that the date selected is wrong. What in fact the court is doing is making an assessment of what is the most likely date of birth. It is comparing the likelihood of a wide potential range of dates and picking the one which the evidence suggests is more likely than the rest to be accurate. Where all other factors are equal, that may well be the middle of the appropriate range, because as one moves to the extreme ends of the range proximity to error increases.

10. With that in mind, I turn to the evidence in the present case. There is here, in truth, no evidence at all as to precisely when FN was born. He does not know his birthday, nor, it seems, does his mother. To western ears that may seem surprising. It appears it would not be surprising to Afghans. The nearest thing to an official record relating to FN's birth is the Taskira certificate, or Afghan identity form. That document, of which we have a photocopy, is translated at [AA/66]. Beside the rubric "date of birth and age" is written the following:

"On the basis of his appearance, ascertained as 10 years old on 13/85".

13/85 is the Afghan calendar reference to a year that begins in March 2006 in the Gregorian calendar.

11. The defendants in the present case do not accept the reliability or authenticity of that document but, having heard the explanation of how it was obtained, I am prepared to accept that it is probably genuine. In fact, however, it takes matters very little further forward. All it suggests is that, in about 2006, FN looked to some Afghani official as if he were about 10. That is evidence of his date of birth of only very modest weight. Mr Butler says it can be inferred that his mother must have agreed but there is precious little to support such an inference. The overwhelming impression left by all I have heard is that birthdays are not events of great moment in Afghanistan, and I am prepared to read into that document no more than that in about 2006 FN looked about 10 years old.
12. FN left Afghanistan for the UK in about October 2008. He travelled, largely in the back of a lorry, to the UK, where he arrived, after a 5 month trip, on 14 April 2009. On arrival he claimed asylum. He reports that his mother said that he was 13 years and 3-months when he left Afghanistan. She is alleged to have based that assertion on the Taskira certificate. If she was right, that would give FN a date of birth of about September 1995.
13. On his arrival in the UK, FN was referred by the Home Office to the London Borough of Croydon, the defendants. Croydon carried out age assessments on him on three occasions, his age being highly material to his entitlement to services now and in the future. Those three assessments have been subject to critical analysis in the course of hearing.
14. The first assessment was conducted on 17 April 2009. Mr Butler is critical of the procedure adopted but, in my judgment, much more powerful is his criticism of the substance of the report. In essence there is neither evidence nor analysis to support the conclusion reached that FN was then 15 years old rather than the 13 he claimed, beyond the fact that this was the social worker's impressionistic opinion. That that was his view after meeting and talking to the boy for 30 minutes is some evidence but, in my judgment, evidence of very little weight.
15. The second age assessment was little better. It was conducted on 7 September 2009. It lasted somewhat longer. It too amounts to an opinion based on very little evidence beyond impression that FN was 15 plus.

16. If this was an ordinary judicial review challenge I would have no hesitation in quashing the decision based on those assessments.
17. The third assessment, dated 12 April 2010, is a better document. It does contain some attempt at analysis and reasoning in the section headed "analysis of information gained". Again, Mr Butler is critical of the procedure adopted. Essentially his submissions go to a failure to adopt a procedure that enabled FN to address any criticisms the author was making of him. If this was simply a judicial review challenge to the propriety of the decision making process it might well be necessary to analyse those criticisms closely but, given the original jurisdiction I am exercising in trying to decide the claimant's date of birth, Mr Butler's submissions do not go far. I can well consider the points of substance that Mr Butler makes. Those are set out in paragraph 32 of his skeleton. In essence he says that the points taken against the claimant do not logically support a conclusion that FN is older than he says he is.
18. In the event, I agree with Mr Butler that none of the three assessments provides a sound foundation for a conclusion that FN was born at the beginning of 1994.
19. The next piece of evidence containing an estimation of the claimant's age is the statement of Tolu Falodi. Ms Falodi is the social worker allocated to FN. She had known him for almost a year at the time of her statement. Her statement contains little by way of analysis but she observes that, in her opinion, his level of functioning and appearance is consistent with a developmental age of 16. I respectfully adopt the observation of Blake J in NA [2009] EWHC 2375 about the notorious unreliability of estimates of age based on physical appearance. However, the view of this experienced social worker about his level of functioning is of some significance.
20. The difficulty even with that, however, is that this witness, like all the other witnesses, is commenting on how an Afghani boy is functioning and behaving in this country, after being brought up in Afghanistan and having had to flee from there in circumstances of great difficulty and stress 2 years ago. Nonetheless, as an experienced social worker with a year's working knowledge of FN, her opinion is a matter to which I must have some regard.
21. Next is the witness statement of AH, the foster mother of FN. She says, at paragraph 10 and 12 of her statement:

"His behaviour is very consistent with a minor of his claimed age"

And

"My impressions of FN are that he is a young boy and is still quite childish in his attitude ..."
22. I note in passing that AH apparently told Mr Simon Shreeve, the independent social worker instructed by the claimant at the time of his assessment in May 2010, that she was of the opinion that FN was likely to be 14 or 15 years of age. AH's views too are worthy of respect. She had had close contact with FN for over 10-months at the time of her witness statement. She is however comparing his behaviour and demeanour

with a fairly small cohort of other young people from similar backgrounds with whom she has had dealings. Her conclusions are, however, matters I take into account.

23. I turn to the final social worker evidence, namely the evidence of the independent social worker Simon Shreeve. His is, if I may say so, by far the most impressive analysis of the issues that arise in this case that I have seen. Whilst it can fairly be said that he saw the claimant alone and it might have been preferable if he had conducted the interview with another social worker, nonetheless his is a balanced and well reasoned report. His formal age assessments record issues of significance that point away from the claimant's primary case. His report strikes me as more compelling as a result of that willingness to contemplate and address the alternative point of view. I note, in particular, in this context his observations, first (at page 53) that the Afghan ID document does not provide a precise date of birth, only an age based on his appearance; second, his observation that FN's physical appearance may suggest he is older, yet his behaviour is somewhat inconsistent with his outward image; and third, his observation that it must be questioned why his mother knew his 13th birthday when this does not appear to have been an important matter in previous years. Mr Shreeve concludes at page 56 that, in his opinion:

"It would be appropriate to consider assessing FN an assumed date of birth, not in the year 13/75 but in the year 13/74; as there are no other time markers it would be appropriate to consider the first day of the year 13/74, which is 21 March 1995 in the Gregorian calendar. This would therefore mean that he had just passed his 15th birthday at the time of this assessment".

24. In my judgment, this is the most impressive piece of evidence I have and I place very considerable weight on it.
25. Finally, I turn to the medical evidence. I have a report commissioned by the claimant's solicitors from Dr Diana Birch, dated 5 November 2010, and a commentary on that report from Dr Collin Stern, dated 18 February 2011. It is the latter report on which I gave the defendant permission to rely yesterday.
26. Dr Birch appears to be a highly experienced and well qualified paediatric expert. It is apparent from other case reports and from what I have been told that she and Dr Stern have crossed swords in a number of previous cases. Dr Birch's report sets out her views on FN's mental development, physical growth and development, sexual development, maturation, and teeth. She concludes that FN's likely age in November 2010 was in the range 14.58 years to 16.58. The mid-point therefore is 15 years 7-months, giving a date of birth of 5 May 1995.
27. There seems to me a number of difficulties with Dr Birch's approach, at least so far as I can discern it from reading her report. First, she sets out at paragraph 6 the helpful observation of the Royal College of Paediatricians and Child Health which concludes:

"A paediatric assessment is an integral part of such a holistic approach".

In the following paragraph Dr Birch then explains that the method she employs in her assessment is a holistic evaluation, employing "a variety of approaches, encompassing a range of parameters". That, it seems to me, is to misread the Royal College's guidance. What they advocate is a paediatric assessment employing a paediatrician's traditional expertise, and that that assessment then forms part of a holistic evaluation to be performed by others, be they social workers or ultimately the court.

28. Next, Dr Birch refers uncritically to matters which need to be established with some precision if they are to be of any value. So, at paragraph 71 she talks about FN's father being "a tall, strong man" and his mother being "fairly short". Since parental height may well be a relevant factor in some of the assessments that she goes on to make, it seems to me that this lack of precision and reliance upon such matters is unfortunate.
29. Then Dr Birch makes a number of observations which seem to me valueless unless related to the child's age, which is the very question she is seeking to address. So she says at paragraph 12 that FN "presented as a conscientious, serious boy who seems quite bright". It seems to me difficult to advance any such proposition without knowing something about his age. In the section headed "mental and emotional development" at paragraph 1 she talks about FN presenting as "a boy of above average intelligence and ability who is probably functioning below his ability level". That begs the obvious question; how can she say that without knowing his age? At paragraph 23 in a section headed "general physical development", she describes FN as "a boy of average build". Again, she does not explain how she can say that without ascertaining what an average build would be for a boy of his age. Underlying many of those observations is the concern that Dr Birch is assuming precisely what she seeks to prove.
30. Further criticism was made of Dr Birch's reports by Mr Harrop-Griffiths. Notably, he complained that she was using average height and weight charts without showing that they are applicable to Afghani children. He says, furthermore, that she is using the charts backwards, by comparing FN's build, height and weight with a child on the 50th centile for different ages, rather than using these graphs, as intended, when age is known.
31. Further criticism of Dr Birch's reports are detailed in the report of Dr Stern. I have also been referred to observations on Dr Birch's approach by Collin J in A v London Borough of Croydon [2009] EWHC 939 at paragraph 29 onwards, although Mr Butler points out that Dr Birch has since addressed the criticism made at paragraph 31 of that judgment about blind testing.
32. I have not heard Dr Birch give evidence and I have not heard her respond to cross-examination. It would therefore be quite wrong of me to draw any conclusion on any of these matters. Dr Birch is a paediatrician of great experience and considerable eminence and I have no doubt that she would have much to say in response to the points I have outlined. However, I am having to deal with this case on the documents and I feel able to place only modest weight on Dr Birch's views in that context, given the observations I have just referred to.

33. Standing back from that review of the evidence, I draw the following conclusions. First, the Afghani identity document does no more than suggest that FN was about 10 in 2006; second, I can place little reliance on any of the three age assessments, beyond noting the general observations of the social workers concerned that FN was older than he claimed; third, Tolu Falodi's evidence is supportive of him functioning at the level of a 16-year old at the beginning of the present year; fourth, FN's foster mother regards his behaviour as consistent with a boy of 15; fifth, the most convincing analysis is that of Mr Shreeve, who would suggest that FN is now one week short of being 16.
34. In those circumstances, it seems to me that it can be said with some confidence that FN is probably 15 years old today. As to his date of birth, the best I can do is to say that it seems likely that he was born between November 1994 and November 1995, with the most likely date, in the sense I described it earlier, being that suggested by the parties; namely, 1 April 1995.
35. I am aware that it has taken a day and a half and many pages of judgment for me to get back precisely to where we started, with the parties' suggestion that 1 April 1995 would be a sensible compromise as to his date of birth. But I repeat that a declaration to that effect would be appropriate only after careful consideration of the evidence.
36. Finally, and in recognition of the fact that cases of this sort are becoming more common, I would add this. This case demonstrates, it seems to me, the need for the parties to give careful and early consideration to the outcome of this sort of dispute and to the form of order which might be appropriate. An email to the court the night before the hearing indicating that the parties have agreed a date of birth is seldom likely to suffice. If the parties have agreed a date they should seek to agree the reasoning behind that selection. Then, in accordance with paragraph 17.1 of the Practice Directions to Rule 54, the claimant should file at court a draft of the agreed order and, most importantly, a statement of the justification for that order. By that means the expense of a hearing like the present one may well be avoided, because the judge hearing the case will have his attention drawn to the evidence and the issues which need to be considered before the court's approval can be given.
37. Thank you.
38. Gentlemen, if there are corrections to that, admittedly rather hastily prepared judgment, I would be glad to hear them, either now or subsequently.
39. **MR BUTLER:** My Lord, I only identified two according to my note. The first was that Mr Shreeve was instructed by the claimant not by London Borough of Croydon.
40. **THE DEPUTY JUDGE:** If I said that then I was wrong and could it please be changed so that it reads "by the claimant". I was well aware of that.
41. **MR BUTLER:** The second would be an equally obvious slip, which was when your Lordship, at the end of your judgment, referred to the likely range of dates as being 2004 to 2005. That ought to be 1994 to 1995.
42. **THE DEPUTY JUDGE:** Thank you very much, can that be corrected.

43. **MR HARROP-GRIFFITHS:** I think your Lordship might have said that he left Afghanistan in December 2008, whereas he said that it was October 2008, but that might have been my hearing.
44. **THE DEPUTY JUDGE:** Thank you.
45. **MR BUTLER:** I am so sorry, my Lord, I am also reminded that, given there is anonymity for the claimant, perhaps it would also be appropriate for the foster carer's name to be anonymised; given that the identification of her may identify him.
46. **MR HARROP-GRIFFITHS:** I do not think we have a view on that matter.
47. **THE DEPUTY JUDGE:** Very well. That was AH, was it not?
48. **MR BUTLER:** Yes. So she could become AH or H.
49. **THE DEPUTY JUDGE:** Yes. AH, please, if that is possible. Thank you very much for that.
50. **MR BUTLER:** I am grateful, my Lord. In terms of the form of the order which I seek, your Lordship has seen the draft which I sent to you on Monday evening, which is my draft and which is not agreed.
51. **THE DEPUTY JUDGE:** Yes. I am sure I have it somewhere; I seem to have left in my room everything that matters. I have found it. Thank you.
52. Yes, I will make some amendments to this. What I propose to say in the order, subject to anything you say is this:

"Upon hearing counsel for the claimant and counsel for the defendant, upon the court considering the requirements of CPR 21.10 and the evidence as to the claimant's age, and upon the court being satisfied that the most likely date on which the claimant was born was 1 April 1995, it is declared that the claimant was born on 1 April 1995.

It is ordered that:

- 1) the claim for judicial review is allowed.
- 2) the defendant's decisions as to the claimants age are quashed ..."

And then I will hear from you on costs.

53. **MR BUTLER:** Yes.
54. **THE DEPUTY JUDGE:** Thus far, anything?
55. **MR BUTLER:** I am content with that, I do not know about my learned friend.

56. **MR HARROP-GRIFFITHS:** I think what I would suggest, perhaps as to the second part of the pre-amble is, "upon the court considering the written evidence as to claimant's age".
57. **THE DEPUTY JUDGE:** Thank you. I agree.
58. **MR HARROP-GRIFFITHS:** As for the paragraphs 1 and 2 in the body of the order, in my submission I would invite you to consider that again once you have heard the submissions on costs.
59. **THE DEPUTY JUDGE:** Very well, I am happy to do that. Lets hear you on costs.
60. **MR BUTLER:** My Lord, I say that one takes as a starting point CPR Rule 44.3(2), the general rule of costs; the loser pays the winner's costs. Was the claimant successful? Well, he established that the defendant had committed an error of law, a jurisdictional error, and it follows that the claim for judicial review must succeed. Second, he has won a real victory rather than merely a technical one; he will gain services for an extra 16-months from the defendants and, as against third parties, he will obtain leave to remain in this country for an extra 16-months. The third point, the victory was based on the evidence filed on his behalf, Mr Shreeve's evidence. The fourth point, the defendant's -- the evidence upon which the defendant relied, namely its three assessments, have been found not to logically support its view. The final point, the defendant opposed the form of the order sought, the declarations, and that, in part, has led to the form of the hearing we have had.
61. **THE DEPUTY JUDGE:** Yes. Thank you.
62. **MR HARROP-GRIFFITHS:** Yes. Well, so far as the most important part of that, in my submission, is the question of whether he has won or not in what has been a fact finding exercise. In my submission he has not. It cannot be said that he has succeeded; his claim form is to the effect that, on the facts, his date of birth is 1 January 1996, and that was the matter that he has put to the court. He has not succeeded in that. There has been a compromise which has taken the two extremes and found exactly the middle ground. I can tell your Lordship that that was instigated by the defendant last week, in fact on Thursday, and it has culminated in an agreement on Monday as to the date of birth. There has been, as I understand it, and I do not think there will be anything said against this, there has not been any movement before then on the claimant's part to try and agree another date of birth.
63. We are in the position, in my submission, where it is a classic compromise between the two parties and it is something that, on the evidence, your Lordship has accepted is an appropriate way of dealing with this case. So that, therefore, in my submission, there should be no order as to costs. It cannot be said, therefore, to be a real victory. It is something of a victory, I accept that, but also something of a loss so far as he is concerned.
64. So far as his evidence having prevailed over the local authority's, that is not, in my submission, properly the way to look at it, in the sense that the position is that one looks

at the totality of the evidence; both the court does that and the parties should do that in order to see what the totality says. If the totality is in favour of a particular agreement then an agreement can be reached, and should be reached, and if it is down the middle then, in my submission, no order to costs ought to be the appropriate result.

65. So far as the defendant opposing the form of declaration, I go back to what I said yesterday at the outset, that it did not oppose a declaration as such --
66. **THE DEPUTY JUDGE:** I do not think I need to trouble you about that, it was my insistence on the court having examination of the material before making a declaration that led to where we were.
67. **MR HARROP-GRIFFITHS:** Perhaps I can just return to my learned friend's initial point, which is that we fell into error by not concluding that he was born on 1 April 1995. If that is what it amounts to and that we should pay the costs because we have lost on that basis then, with respect, it is a complete nonsense. It would mean that if a claimant goes in, as the claimant here, to say 1 January 1994 and if he does any better than what we have said he is, 1 January 1994, that he wins, even though he could be, in theory, the day before our concluded date. So that cannot be right and, in my submission, looking at this matter in the round, and the steps taken by the defendant to try and resolve this matter out of court -- I say out of court, it had to come to court, at least for the approval and as it happens for the declaration -- I invite you to say that the proper approach should be no order as to costs.
68. **THE DEPUTY JUDGE:** Yes.
69. **MR BUTLER:** My Lord, yes. The ordinary approach in judicial review claims which are compromised, where a defendant has granted the relief sought but not admitted that there was an error, is for the court to ask whether it is tolerably clear that if the claim had proceeded to a substantive hearing an error would have been established. The touchstone of success in judicial review is whether or not an error has been made out. The defendant may consider it unfair or harsh, but it is a consequence of the Supreme Court's decision that a local authority which reaches a factually incorrect decision on age commits an error of law. I am prepared to accept that if a claimant comes to court and albeit establishes an error of fact but not a material error, one talks about a few days, a few weeks, or even a month or so, that might lead to a different form of costs order, but in this case the error was a material one, we are talking about 16-months.
70. The final point I make is that the defendant had maintained up until a few days before trial, in forceful terms, that its decision was correct, and your Lordship has seen the review decision of Alberta Golding dated 20 January 2011 in which she analysed Mr Shreeve's report, among other pieces of evidence, and stood by the defendant's own age assessments. So the claimant, or the Legal Services Commission on behalf of the claimant, has incurred substantial cost as a result of pressing the point that the defendant's assessments are wrong, and they ought to be compensated.
71. **THE DEPUTY JUDGE:** Thank you.

72. It seems to me that the claimant has won the bulk of the arguments in this case. However, the claimant's success has not been total, in that the agreed date and the date I have found were between the two suggested dates. In my judgment, the appropriate order here is that the defendant should pay 70 per cent of the claimant's costs.
73. **MR BUTLER:** I am very grateful, my Lord.
74. I do not know whether there is anything else that needs to be discussed about the form of the order?
75. **MR HARROP-GRIFFITHS:** Yes. Well, I suppose I was going to say following on from submissions on costs -- an expression, I suppose, on the basis of what your Lordship has said. They have won the bulk of the arguments and the claim is allowed. That was what was I balked at, as it were.
76. **THE DEPUTY JUDGE:** I think it follows from what I have said that paragraph 1 is sound, as is paragraph 2.
77. **MR HARROP-GRIFFITHS:** I do not need to say anything more about that. Nothing, so far as the order is concerned. It is going to be written in that it will be assessed if not agreed.
78. **MR BUTLER:** Yes. And a detailed assessment of the claimant's costs, if I may.
79. **THE DEPUTY JUDGE:** Can I ask you, Mr Butler, to draw up an agreed form of order reflecting what I have said.
80. I am helpfully reminded that the anonymity orders ought to go in that order as well please. I do not know whether there has been one for FN other than what I said right at the beginning of this. For the avoidance of doubt, can I ask you to put it in please, and can you also put in the one in relation to the foster carer.
81. **MR BUTLER:** Yes.
82. **THE DEPUTY JUDGE:** If the two of you could agree that order and send it through, both to the court and to me, please. In fact it is probably most sensible to send it to my Chambers address, but also to the court please.
83. **MR BUTLER:** Yes. Thank you.
84. **THE DEPUTY JUDGE:** Thank you both very much. It would have been even more fun if we had had the witnesses here, but thank you all the same.
85. **MR HARROP-GRIFFITHS:** Thank you. Can I say on behalf of Croydon, thank you, my Lord, for showing us perhaps a way forward in respect of these particular matters.
86. **THE DEPUTY JUDGE:** I do not know about that, but I hope the next person who does one is not me.

87. Thank you very much.