

**IN THE HIGH COURT OF JUSTICE  
KING'S BENCH DIVISION  
ADMINISTRATIVE COURT**

AC-2025-LON-001362



**BETWEEN:**

AC-2025-LON-001362

**THE KING on the application of KD**

**Claimant**

**-and-**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

**Defendant**

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**~~[draft]~~ CONSENT ORDER**

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**UPON** the Claimant having issued this claim for judicial review on 24 April 2025

**AND UPON** Robert Palmer KC (sitting as a Deputy Judge of the High Court) by his Order dated 25 November 2025 having directed an expedited rolled-up hearing which was listed for 25 and 26 March 2026 but subsequently vacated by the Defendant's application. No hearing is currently listed.

**AND UPON** the Defendant conceding that the Irregular Migration Intake Unit ('IMIU') should have inquired further into the Claimant's account that he was forced at gunpoint to pilot the small boat across the channel and the IMIU should have referred the Claimant (subject to his consent) into the National Referral Mechanism ('NRM') as a potential victim of trafficking in accordance with paragraph 4.7 of the Modern Slavery Act Statutory Guidance.

**AND UPON** the Defendant accepting that the IMIU failed to provide the said information to the Officers in the Criminal and Financial Investigation Teams ('CFIT') who decided whether or not to refer the Claimant for criminal investigation and prosecution in respect of potential offences under sections 24(D1) and 25 of the Immigration Act 1971

**AND UPON** the Defendant accepting that the Claimant should not have been referred for criminal charge and prosecution without any consideration of the Claimant's said account and

any referral to the NRM prior to consideration of a decision as to whether to charge him with immigration offences under ss24(D1) and / or 25 Immigration Act 1971.

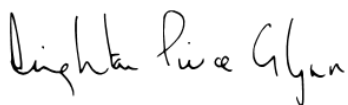
**AND UPON** the Defendant, in light of the above, agreeing to review the referral form provided by the IMIU to the CFIT for appropriate amendments.

**BY CONSENT IT IS ORDERED THAT:**

1. Ground 1 is transferred to the County Court to proceed as a civil claim to determine i) whether there were breaches of Articles 4, 5 and 6 ECHR and, if necessary, ii) just satisfaction and/or quantum.
2. The Claimant has leave to withdraw Ground 2 and the above-numbered claim for judicial review.
3. The Defendant shall pay the Claimant's reasonable costs of the proceedings in the Administrative Court on the standard basis, to be assessed if not agreed. All other costs are reserved to the County Court.
4. The Defendant shall make a payment on account of costs of £25,000 to be paid within 28 days of this Order being sealed.
5. There shall be a detailed assessment of the Claimant's legally aided costs.

**DATED: 1 April 2026**

Signed:



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**Deighton Pierce Glynn**  
Whitefriars  
Bristol  
BS1 2NT

Tel: 0117 332 3598

Solicitor for the Claimant

Ref: MA:6394/002

Signed:



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**Government Legal Department**  
102 Petty France  
London  
SW1H 9GL

Tel: 020 7210 1298

Solicitor for the Defendant

Ref: Z2505128

**BETWEEN:**

**THE KING on the application of KD**

**Claimant**

**-and-**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

**Defendant**

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**STATEMENT OF REASONS**

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1. The Claimant is an asylum seeker from South Sudan. On 19 August 2024, he was forced at gunpoint by smugglers to pilot a dinghy and its passengers to the UK. The Claimant and other passengers were eventually intercepted by Border Force.
2. On arriving onto UK shores on the morning of 19 August 2024, the Claimant was detained and taken to Manston Short-Term Holding Facility and subsequently participated in an asylum screening interview, during which he informed the interviewer that he had been forced to drive the dinghy across the Channel at gunpoint. No referral was made to the National Referral Mechanism ('NRM').
3. On 20 August 2024, the Claimant was arrested by the Defendant's immigration officers on suspicion of having attempted entry to the UK without valid entry and having been seen to be one of the pilots on a boat crossing the English Channel contrary to ss24(D1) and 25 IA 1971. Later that day, he was interviewed under caution by two Immigration Officers and admitted that he had piloted the small dinghy. His case was referred by these Immigration Officers to the Crown Prosecution Service for a charging decision.
4. On 21 August 2024, the CPS decided to prosecute him for his illegal arrival in the UK contrary to s24(D1) and (F1) IA 1971 and s1(1) of the Criminal Attempts Act 1981.
5. On 22 August 2024, the Claimant appeared before Margate Magistrates' Court and pleaded guilty. He was remanded to HMP Elmley pending a sentencing hearing. The Claimant was held on remand for five months before being sentenced on 24 January 2025 to eight months' custody, which was treated as time served. He was released on the same day.

6. On 24 April 2025, the Claimant issued judicial review proceedings alleging that the Defendant unlawfully failed to take any or any reasonable steps to investigate the Claimant's account of being forced at gunpoint to pilot a dinghy across the channel despite his disclosure of this incident to Border Force officers and the asylum screening interview officer. The Claimant alleged that this was in breach of common law duties of inquiry and the Modern Slavery Act Statutory Guidance, as well as a breach of Articles 4 and 6 ECHR.
7. On 10 June 2025, the Defendant filed her Acknowledgment of Service and Summary Grounds of Defence, resisting the claim and contending that the claim was brought out of time.
8. On 17 June 2025, the Salvation Army, acting as a First Responder, as designated by the Defendant, made an NRM referral for the Claimant's account of being forced at gunpoint to pilot a dinghy and his experiences in Libya to be investigated. A positive Reasonable Grounds decision was made on 23 June 2025.
9. On 5 September 2025, the Defendant made a positive Conclusive Grounds decision that the Claimant was trafficked in France and Libya.
10. On 25 November 2025, Robert Palmer KC (sitting as a deputy High Court Judge) directed an expedited rolled-up hearing of the Claimant's claim against the Defendant. This was listed for 25-26 March 2026 and subsequently vacated by the Defendant's application. No hearing is currently listed.
11. Having considered her position, the Defendant has now accepted that:
  - a) the Irregular Migration Intake Unit ('IMIU') should have inquired further into the Claimant's account that he was forced at gunpoint to pilot the small boat across the channel and the IMIU should have referred the Claimant (subject to his consent) into the NRM as a potential victim of trafficking in accordance with paragraph 4.7 of the Modern Slavery Act Statutory Guidance.
  - b) the IMIU failed to provide the said information to the Officers in the Criminal and Financial Investigation Teams ('CFIT') who decided whether or not to refer the Claimant for criminal investigation and prosecution in respect of potential offences under sections 24(D1) and 25 of the Immigration Act 1971; and
  - c) the Claimant should not have been referred for criminal charge and prosecution without any consideration of the Claimant's said account and any referral to the NRM prior to

consideration of a decision as to whether to charge him with immigration offences under ss24(D1) and / or 25 Immigration Act 1971.

12. The Defendant agrees to conduct a review of the referral form provided by IMIU to the CFIT for appropriate amendments.
  
13. In those circumstances, the parties agree that:
  - a) Ground 1 is transferred to the County Court to proceed as a civil claim to determine i) whether there were breaches of Articles 4, 5 and 6 ECHR and, if necessary, ii) just satisfaction and/or quantum.
  - b) The Claimant has leave to withdraw Ground 2 and the above-numbered claim for judicial review.
  - c) The Defendant shall pay the Claimant's reasonable costs of the proceedings in the Administrative Court on the standard basis, to be assessed if not agreed. All other costs are reserved to the County Court.
  - d) The Defendant shall make a payment on account of costs of £25,000 to be paid within 28 days of the order being sealed.
  - e) There shall be a detailed assessment of the Claimant's legally aided costs.

**DATED: 1 April 2026**

Signed:

*Deighton Pierce Glynn*

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Signed:

*For the Treasury Solicitor*

.....

**Deighton Pierce Glynn**

Whitefriars

Bristol

BS1 2NT

Tel: 0117 332 3598

Solicitor for the Claimant

Ref: MA:6394/002

**Government Legal Department**

102 Petty France

London

SW1H 9GL

Tel: 020 7210 1298

Solicitor for the Defendant

Ref: Z2505128

Approved by MR C M G OCKELTON sitting as a judge of the High Court