

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
ADMINISTRATIVE COURT
Mr Justice Linden

CO/312/329/354/397/402/2021

BETWEEN

THE QUEEN (on the application of
NB (CO/312/2021)
(1) M and (2) F (CO/329/2021)
OMA (CO/397/2021)
XD (CO/354/2021)
YZM (CO/402/2021))

Claimants

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Defendant

and

(1) LIBERTY
(2) JOINT COUNCIL FOR THE WELFARE OF IMMIGRANTS

Interveners

DRAFT ORDER

UPON hearing Tom Hickman QC and Leonie Hirst for the NB, M, F and OMA, Ms Shu Shin Luh and Ms Antonia Benfield for XD and YZM and Ms Lisa Giovannetti QC and Mr David Manknell for the Defendant at an in-person hearing on 14th and 15th April 2021.

AND UPON the Judge having made a direction pursuant to CPR 32.13(2) that the witness statements of NB, M, F and OMA and the expert reports of Dr Galappathie relating to those claimants are not available for inspection save with the permission of the court.

AND UPON the Claimants having been accommodated by the Defendant at Napier Barracks near Folkstone under sections 95 and 96 of the Immigration and Asylum Act 1999 for the following periods: (1) NB: from 25 September 2020 until 3 February 2021; (2) M: from 25 September 2020 until 30 January 2021; (3) F: from 21 September 2020 until 4 February 2021; (4) OMA: from in or about November/December 2020 until 4 February 2021; (5) XD: from 23 September 2020 until 4 February 2021; (6) YZM: from 23 September 2020 until 4 February 2021.

AND UPON judgment having been handed down at 10.30 am on Thursday 3 June 2021

AND IT IS ORDERED AND DECLARED THAT:

1. The Claims are allowed on Grounds 1, 2 and in part on Ground 4. The remaining grounds for Judicial Review are dismissed.
2. By 4pm on Tuesday 8 June 2021, the Defendant will file written submissions on the terms of the declaratory relief in respect of Grounds 1 and 2, in response to the Claimants' submissions dated 2 June 2020. Thereafter, the Claimants shall have until 4pm on Thursday 10 June 2021 to reply in writing if so advised.
3. From 15 January 2021 until their relocation from Napier Barracks, the Claimants were each falsely imprisoned at Napier Barracks at common law and in breach of Article 5 of Schedule 1 of the Human Rights Act 1998.
4. Each Claimant's claim for damages as just satisfaction for breach of Article 5 of Schedule 1 to the Human Rights Act 1998 and for false imprisonment, including the claim for aggravated and/or exemplary damages, shall be stayed.
5. The parties shall inform the Court within 35 days of the date of this Order whether each Claimant's damages claim has been settled. Any claim that has not settled shall automatically be transferred to the Queen's Bench Division for directions in respect of determination and quantification of damages. Such claim should be reserved to Linden J if possible.
6. The Defendant shall pay the Claimants' reasonable costs of the judicial review, to be subject to detailed assessment if not agreed.
7. There shall be a detailed assessment of the Claimants' publicly funded costs in accordance with the Civil Legal Aid (Costs) Regulations 2013.
8. Any application for permission to appeal is to be made by way of written submissions, limited to 3 pages, to be filed and served by 4pm on Thursday 10 June 2021 and any written

submissions in response, also limited to 3 pages, are to be filed and served by 4pm on Wednesday 16 June 2021.

9. The hearing of 3 June 2021 is adjourned accordingly, and the time for any notice of appeal is extended to 21 days after the date of the Court's decision on permission to appeal.

Mr Justice Linden

Dated this 3rd day of June 2021