

Case Law Update

Public Law Day 2026

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June 2026



SSHD v Ammori [2026] EWHC 292 (Admin)



Background

Challenge to the decision to proscribe Palestine Action

Terrorism Act 2000

(4) The Secretary of State may exercise his power under subsection (3)(a) in respect of an organisation only if he believes that it is concerned in terrorism.

(5) For the purposes of subsection (4) an organisation is concerned in terrorism if it—

(a) commits or participates in acts of terrorism,

(b) prepares for terrorism,

(c) promotes or encourages terrorism, or

(d) is otherwise concerned in terrorism.

Government Proscription Policy

In considering whether to exercise this discretion, the Home Secretary will take into account other factors including:

- *The nature and scale of the organisation's activities*
 - *The specific threat that it poses to the UK*
- *The specific threat that it poses to British Nationals overseas*
 - *The extent of the organisation's presence in the UK*
- *The need to support other members of the international community in the global fight against terrorism*

Divisional Court Decision

01

Proscription Policy

SSHD had misinterpreted the Proscription Policy by taking into account the operational benefits of proscription.

02

Articles 10/11

The decision did not strike a fair balance between Article 10/11:

“the nature and scale of Palestine Action’s activities, so far as they [comprised] acts of terrorism, [had] not yet reached the level, scale and persistence that would justify the application of the criminal law measures that are the consequence of proscription, and the very significant interference with Convention rights consequent on those measures”

Court of Appeal: Proscription Policy

“Policies are not to be read in a complicated or excessively analytical way...Some policies engage relatively specific language and others are expressed in much broader terms which may not require or lend themselves to the same level of legal analysis” [81]

“There is nothing in the wording of the Proscription Policy, which is broadly framed, to indicate that its purpose is to limit or constrain the factors to be considered. On the contrary, the list of factors is expressly non-exhaustive” [81]

Court of Appeal: Article 17

“The threshold to be met under Article 17 is high. Article 17 has been stated to be only applicable “on an exceptional basis and in extreme cases”. In cases concerning Article 10, it should only be resorted to “if it is immediately clear that the impugned statements sought to deflect this Article from its real purpose by employing the right to freedom of expression for ends clearly contrary to the values of the Convention” [93].

Court of Appeal: Article 10/11 – Margin of Appreciation?

"114. As emphasised in Shvidler at [128], it is well-established that issues of national security are central to the constitutional responsibilities of Government. It is the executive government, represented by the relevant Ministers, which has the democratic authority to take decisions in relation to national security, because it is important that those doing so should be responsible to the public for their effective protection.

115. Equally, the assessment of future risk in the context of national security is preeminently a question of specialist evaluation and judgment for the executive. Such assessments involve consideration of a broad range of facts and events, and often take account of expert reports based on a range of information, some of which may be secret..."

Court of Appeal: Article 10/11 – Fair Balance?

Factors weighing against

✓ The rights of the many law-abiding citizens wishing peacefully to protest, hold placards and otherwise support Palestine Action,

✓ The “chilling effect” that proscription may have upon those wishing to support the Palestinian cause, but who may be dissuaded from doing so by fear of committing offences under the 2000 Act.

X International consensus

Factors weighing for

Not an organisation engaged in activities falling within the well-established tradition of peaceful protest

Concerned in terrorism as defined in the 2000 Act and is engaged in causing serious damage to property using weapons

“Underground Manual” advocates the disruption and destruction of and damage to its targets, and avoiding detection

Nationwide campaign was escalating

Campaign was intended to close down the operations of companies pursuing lawful businesses, and has involved direct criminal action

Proscribing would prevent it from funding terrorism and to degrade its covert infrastructure characterised by secret cells.



A Reference by the Attorney General for Northern Ireland of a devolution issue under paragraph 34 of Schedule 10 to the Northern Ireland Act 1998 [2026] UKSC 16



Background – Article 5 ECHR

“1. Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law: ...

(e) the lawful detention of persons for the prevention of the spreading of infectious diseases, of persons of unsound mind, alcoholics or drug addicts or vagrants; ...

4. Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful.

5. Everyone who has been the victim of arrest or detention in contravention of the provisions of this Article shall have an enforceable right to compensation.”

Background – Deprivation of Liberty

Objective element: *Is a person confined to a particular restricted space for a material period of time?*

Subjective element: *Is there valid consent to that confinement?*

Cheshire West and Chester Council v P [2014] UKSC 19:

- (1) *Objective element – acid test;*
- (2) *Subjective element – lack of mental capacity meant a lack of valid consent.*

Question: Was Cheshire West correctly decided?

Judgment: Cheshire West wrongly decided

Multi-factorial approach

Lack of mental capacity \neq lack of valid consent

Compliance and lack of objection is relevant

What next?



Department
of Health &
Social Care

Guidance

UK Supreme Court 2026 judgment on what constitutes a deprivation of liberty

Published 15 June 2026



Good Law Project v Commission for Equality and Human Rights [2026] EWHC 279 (Admin)



Background

- ***For Women Scotland Limited v Scottish Ministers* [2025] 2 WLR 879** (16 April 2025) – concerned meaning of terms ‘man’, ‘woman’ and ‘sex’ for the purposes of the Equality Act 2010.
- Held that the terms ‘man’, ‘woman’ and ‘sex’ in the EA 2010 refer to ‘biological sex’, which the Court used to mean sex at birth: [7], [80]–[82], [162]–[164], [264].
- Gender recognition certificate did not change this position [266]. Considered this would not remove protections from discrimination for trans people because they had protected characteristic of gender reassignment and might sometimes be protected from sex discrimination on basis of perceived sex: [248] – [263].



Supreme Court at [2] attempted to confine scope of the *For Women Scotland* judgment

“It is not the role of the court to adjudicate on the arguments in the public domain on the meaning of gender or sex, nor is it to define the meaning of the word “woman” other than when it is used in the provisions of the EA 2010. It has a more limited role which does not involve making policy. The principal question which the court addresses on this appeal is the meaning of the words which Parliament has used in the EA 2010 in legislating to protect women and members of the trans community against discrimination. Our task is to see if those words can bear a coherent and predictable meaning within the EA 2010 consistently with the Gender Recognition Act 2004 (“the GRA 2004”).”





The press coverage was not quite so focused....



Source: [Law Society of Scotland](#)

The EHRC Interim Update

25 April 2025 – ECHR published “*An interim update on the practical implications of the UK Supreme Court judgment*”, under s.13(1)(d) of Equality Act 2006. Guidance applied to workplaces and public services.

- Workplaces must have sufficient single sex toilets, changing and washing facilities.
- In workplaces and public services where single sex facilities are provided, trans women not permitted to use women’s facilities and trans men not permitted to use men’s facilities.
- But trans people should not be left with no facilities they could use so “where possible mixed-sex toilet, washing or changing facilities in addition to sufficient single-sex facilities should be provided”.

The EHRC Interim Update

- Significant concern from trans rights groups and also workplaces which operated mixed sex facilities.
- **24 June 2025** – Interim Update revised to add reference to Workplace (Health, Safety and Welfare) Regulations 1992 (“**the 1992 Regulations**”)
- Clarified that toilets, showers and changing facilities may be mixed-sex where they are in a separate room lockable from the inside but otherwise there must be separate single sex facilities.
- **15 October 2025** – EHRC removed the Interim Update from its website.

Good Law Project v Commission for Equality and Human Rights [2026] EWHC 279 (Admin)

- Claim brought by two trans individuals and one intersex individual, and by the Good Law Project. Guidance withdrawn after the claim was issued but before hearing.
- **Substantive issues:**
 - Whether the Interim Update misrepresented the EA 2010 and 1992 Regulations.
 - Alternatively, whether the EA 2010 was itself compatible with the ECHR.
- **Procedural issues:**
 - Whether the claim had become academic after the ECHR removed the Interim Update from its website.
 - Whether the Good Law Project had standing.

Good Law Project v Commission for Equality and Human Rights [2026] EWHC 279 (Admin)

Procedural points

- Swift J concluded that individual Claimants had standing but Good Law Project failed 'sufficient interest' test.
- Claim was not academic – whilst Interim Update had been withdrawn, individual Claimants' employers had put in place new arrangements regarding use of toilets in their places of work which continued to be enforced after withdrawal of the guidance.

Substantive decision

- Law not a comprehensive code for the provision of facilities. Cases will turn on their facts [26] – [28].
- Summary of the law in the Update was accurate and not required to be comprehensive [79].
- Any interference with trans people's Article 8 rights under EA 2010 was likely to be justified on the facts [98] – [100].



South East Water Ltd v Water Services Regulation Authority [2026] EWHC 479 (Admin)





Lots more injunctions this year...

- ***University of Cambridge v Persons Unknown [2025] EWHC 2330 (KB)*** – University granted one-year final injunction restraining unknown protestors from entering, occupying and/or blocking three sites on its campus.
- ***North Warwickshire BC v Various Defendants [2025] EWHC 2403 (KB)*** – No basis for amended or discharging an injunction against named and unknown protestors at an inland oil terminal. The injunction and power of arrest extended.
- ***London Southend Airport Co Ltd v Persons Unknown [2025] 10 WLUK 423 (Extempore)*** – Five-year injunction restraining environmental campaigners from anticipated direct action at an airport continued for another 12 months.

Lots more injunctions this year...

- ***Transport for London v Rodger [2025] [2025] EWHC 3005 (KB)*** – Court agreed with TFL that it was appropriate to discharge two final injunctions against "Insulate Britain" and "Just Stop Oil" protesters after groups announces they were no longer taking part in disruptive protests.
- ***Birmingham City Council v Persons Unknown [2026] EWHC 373 (KB)*** – Council's application for an interim injunction restraining persons unknown from trespassing at waste depots was granted.
- ***WM Morrison Supermarkets Ltd v Persons Unknown [2026] EWHC 1379 (KB)*** – Injunction granted against agricultural protesters at a supermarket chain's distribution centres had been proved effective and was continued for 12 months.

South East Water Ltd v Water Services Regulation Authority [2026] EWHC 479 (Admin)

- **November 2023** – Ofwat launched investigation into SEW's compliance with section 37 of the Water Industry Act 1991 and Licence Condition P12.
 - after multiple service interruptions in Kent and Sussex.
- **18 February 2026** – Ofwat informed SEW it intended to issue proposed enforcement order and financial penalty in due course. Duty to publish draft decisions (s.22B WIA 1991), which are usually subject to 21-day statutory public consultation window.
- **24 February 2026** – Application for an urgent injunction by South East Water Ltd, seeking to prevent water regulator Ofwat from publishing its proposed enforcement decision.

South East Water Ltd v Water Services Regulation Authority [2026] EWHC 479 (Admin)

- **Legal Background:** High threshold at which Courts will allow urgent injunctions to prevent public authorities from publishing information they are otherwise obliged or empowered to publish previously established in *R (Governing Body of X School) v Office for Standards in Education* [2020] EWCA Civ 594 and *R (Barking and Dagenham College) v Office for Students* [2019] EWHC 2667 (Admin).
- Paragraph 16.6.3 of the Administrative Court Guide:
"where a claimant seeks to restrain publication of information by a public authority which is obliged or empowered to do so, the Court must consider the rights of those who would otherwise be entitled to receive the information.... Interim relief will only be granted for the "most compelling reasons" or in "exceptional circumstances".

South East Water Ltd v Water Services Regulation Authority [2026] EWHC 479 (Admin)

- **Issue:** On interim relief whether SEW had established ‘compelling reasons’ or ‘exceptional circumstances’ for restraining publication of draft decision. SEW contended that publication would lead to irreparable harm to its business interests and might result in the downgrading of its credit rating with long term impacts on ability to secure investment [19] – [22].
- Underlying grounds concerned range of alleged public law errors – re: statutory construction of s.37 WIA 1991, predetermination, procedural unfairness, breach of *Tameside* duty, failure to publish policy interference with Article 1 Protocol 1 rights.

South East Water Ltd v Water Services Regulation Authority [2026] EWHC 479 (Admin)

- **Held:** Interim relief refused. SEW's case "far from compelling" [24]. No concluded view on merits of underlying grounds so balance of convenience test applied.
- Far from clear that the publication of the proposed decision would cause SEW "grave" or "irreparable" harm. SEW's further representations might persuade Ofwat to withdraw decision. Even if not, lenders can be assumed to act rationally [49].
- Outweighed by harm to existing lenders and customers. Relief designed to keep credit agencies in the dark "objectionable in principle" [53].
- *R (Barking and Dagenham College) v Office for Students* [2019] EWHC 2667 (Admin) applied. No compelling reason to override statutory duty to publish [58].



Thank you

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