



Practice and Procedure: Key Updates

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The Procedural Tool Kit





Procedural tool kit



- Senior Courts Act 1981, section 31
- CPR 54; PD54A/E
- The Administrative Court Judicial Review Guide 2025



The four critical stages



- Decision
- Pre-action protocol stage
- Permission / interim relief stage
- Response stage

Decision

Reasons are critical

- Adequate
- Intelligible
- Grapple with the substantial points raised

Practical steps

- Consider whether draft should be checked
- Use **[own]** structure in letter, and have conclusions
- Ensure appropriate tests are mentioned and seen to be applied
- Avoid complicated sentences and repetition
- Potential to supplement reasoning, if necessary, at pre-action stage



Procedural Rigour





To JR, or not to JR?



The need for procedural rigour

The need to plead:

"In my view, it cannot be emphasised enough that public law litigation must be conducted with an appropriate degree of procedural rigour . . . both fairness and the orderly management of litigation require that there must be an appropriate degree of formality and predictability in the conduct of public law litigation as in other forms of civil litigation ...

Avoiding rolling JR

The Courts frequently observe ... that grounds of challenge have a habit of 'evolving' during the course of proceedings, for example when a final skeleton argument comes to be drafted. This will in practice be many months after the formal close of pleadings and after evidence has been filed. These unfortunate trends must be resisted and should be discouraged by the courts, using whatever powers they have to impose procedural rigour in public law proceedings. Courts should be prepared to take robust decisions and not permit grounds to be advanced if they have not been properly pleaded or where permission has not been granted to raise them. Otherwise there is a risk that there will be unfairness, not only to the other party to the case, but potentially to the wider public interest, which is an important facet of public law litigation."

R(Talpada) v SSHD [2018] EWCA Civ 841, per Singh LJ eliding [67-69]

See also: R (F) v Surrey CC [2023] 4 WLR 45;

R (Dolan) v. SSHSC [2021] 1 WLR 2326;

R (Dalton) v CPS (Practice Note) [2020] 1 WLR 5329

Time limits

CPR 54.5 (1) The claim form must be filed –(a) **promptly**; and (b) in any event **not later than 3 months** after the grounds to make the claim **first arose**. (2) The time limits in this rule may not be extended by agreement between the parties.

“First arose”

“... a judicial review applicant must move against the substantive act or decision which is the real basis of his complaint. If, after that act has been done, he takes no steps but merely waits until something consequential and dependent upon it takes place and then challenges that, he runs the risk of being put out of court for being too late.”

ACG 33/section 6.4

R (Greenpeace) v Secretary of State for Trade & Industry [1998] Env. L.R. 415, per Laws J

See also: R (Fylde Coast Farms Ltd) v Fylde Borough Council [2021] 1 WLR 2794

R. (oao Wingfield) v Canterbury City Council [2019] EWHC 1974 (Admin)

Surrey County Council v R(BC) [2025] EWCA Civ 719

Alternative remedies

- “Judicial review is often said to be a **remedy of last resort**. If there is another route by which the decision can be challenged, which provides an adequate remedy for the claimant, that alternative remedy should generally be used before applying for judicial review.”
- Baseline: starting litigation should be a **last resort ACG, 31/§6.3.3**
- **R(Archer) v RCC [2019] 1 WLR 6355 at [87]-[95]**
- Alternative remedies in housing cases may include statutory review/appeal; voluntary reconsideration; statutory / non statutory complaints procedure & complaint to the Ombudsman

Pre action protocol compliance

- “So far as reasonably possible, an intending claimant should try to resolve the claim without litigation. Litigation should be a last resort.” (**ACG 27/§6.2.1**)
- Pre-action protocol (judicial review)
 - No impact on time limits
 - Implications for costs/case management issues
 - Time for response/interim response
- Judicial guidance: **Ewing v ODPM (Practice Note) [2006] 1 W.L.R. 1260 at [43]**
- **Purpose of SGR / SGD**
 - Can simply refer to PAP
 - Draw attention to “knock-out points” or procedural bars; or practical consequences



Can I be candid with you . . .



Commencement of the claim – claimant’s duty of candour

“The duty of candour is directed in the most part to ensuring that matters unfavourable to the applicant are drawn to the attention of the judge. There are many late applications for injunctive relief which are based on little more than an assertion that something may turn up if the new advisers are given time to investigate. Such applications should get nowhere. Yet there is a strong imperative for those instructed late in the day to make no representations or factual assertions which do not have a proper foundation in the materials available to them. Gaps in knowledge should not be filled by wishful thinking. In almost all such cases there will have been extensive engagement between the putative applicant and the immigration authorities and often the independent appellate authorities. So too in many cases there will have been dialogue between the authorities and previous lawyers. There will be a large reservoir of information available. Without access to that information it behoves those who come on to the scene at the last minute to take especial care in the factual assertions they make.”

R (SB Afghanistan) v SSHD [2018] 1 WLR 4457, per Ld Burnett CJ

Duty of candour (cont.)

R(Citizens UK) v SSHD [2018] 4 WLR 123

- Duty to assist the court with full and accurate explanations of all the facts relevant to the issues
- Witness statements must not deliberately or unintentionally obscure areas of central relevance
- No spin
- Breach of duty can occur by omission, e.g. non-disclosure of a material document/fact

Duty is particularly important where without notice relief is sought:

R(Gopinah Sathival) v SSHD [2018] 4 WLR 89 at [20]
R (oao Police Superintendents Association) v PRRB [2024] 1 WLR 166

Duty of candour (cont.)

R (oao Police Superintendents Association) v PRRB [2024] 1 WLR 166

The “10 Principles Judgment” (§15) – Fordham J

- (1) : the Standard Disclosure principle
- (3) : the Candid Disclosure principle – “all cards face upwards”
- (4) : the Information Too principle – WS may need to fill gaps in documents
- (7) : the Best Evidence principle – documents should be produced, not gisted
- (9) : the Permission Stage principle
- (10) : the Unpleaded Grounds principle

Duty of candour (cont.)

R (Khan) v Secretary of State for the Home Department [2008] EWHC 1367 (Admin) [12]
R (Caterpillar (Xuzhou) Ltd) v Secretary of State for Business and Trade [2025] EWHC 1124 (Admin) [164].

- The duty extends to:
 - Making full disclosure to the Court of material facts; and
 - Known impediments to the claim, e.g.:
 - alternative remedy, delay,
 - adverse case law,
 - statutory ouster,
 - change of circumstances

A failure to comply with the duty can be taken into account in deciding permission.

National Bank of Anguilla v Chief Minister of Anguilla [2025] UKPC 14, [92]

Duty of candour (cont.)

- **BUT** – it can be correct to issue **in time** without full information – context is everything
- **R (British Gas Trading Ltd and others) v Secretary of State for Energy Security and Net Zero (formerly Secretary of State for Business, Energy and Industrial Strategy)**
- On delay, the approach to PAP letters when information is incomplete, and steps to be taken to refine “flesh out” claim
- DC [2023] EWHC 737 (Admin) at [150] – [153]
- [2025] 1 WLR 3342, CA at [39]
- (1) A claimant does not need to have full disclosure in order to launch judicial review proceedings
- (2) Do you know the “essence” for the bases of claim
- (3) Delay by D in responding to correspondence will not affect prejudice that may be caused to IP

Duty of candour – a final point

- You can't contract out of it
- R (MTA) v Secretary of State for the Home Department, Secretary of State for Foreign, Commonwealth and Development Affairs, Secretary of State for Defence [2024] EWHC 553 (Admin)
- **Disclosure of identities of advisors / decision makers, following IAB [2024] 1 WLR 1916**
- Proposed consent order post IAB:
- "The Defendants be granted permission to maintain the redactions of the names of the civil servants who feature in the documents exhibited to the witness statement of Dan Hobbs dated 20 October 2023 and Christine Ferguson dated 19 October 2023, which were filed along with Detailed Grounds of Resistance." **BUT** – it can be correct to issue **in time** without full information – context is everything
- Swift J unimpressed [25] – [26]: " it is no significant stretch of the imagination to conclude that the order proposed was in the nature of a bold attempt to outflank the judgment of the Court of Appeal . . . [SoS] ought to have known better"



Use of AI – Courting trouble?



AI in Skeletons / Court documents

R (Ayinde) v The London Borough of Haringey [2025] 1 WLR 5147, KBD.

- Effect summarised in **ACG §20.2.5 – the risk of Hallucinations**
- **Non-delegable** duty to ensure authorities are genuine
 - Reliance should not be placed on auto-generated authorities; **or**
 - Fruits of client research
- Risk of serious sanctions: admonition; costs; wasted costs; striking out; referral to a regulator; initiation of contempt proceedings; and referral to the police
- See also:
 - **UK v. SoS HD** [2026] 4 WLR 37 – Google AI / Uploading confidential data
 - **On LIP: Cork v Smith** [2026] EWHC 1199 (Ch); and
 - **Olsen v Finansiell Stabilitet A/S** [2025] EWHC 42 (KB)

AI in Skeletons / Court documents



AI in Skeletons / Court documents

Bandla v Solicitors Regulation Authority [2025] 4 WLR 63

- C struck off roll
- Applied for EoT for appeal against decision
- EoT refused and appeal struck out as abuse
- “that the court needed to take **decisive action** to protect the integrity of its processes against **any citation of fake authority**; that there had been multiple examples of fake authorities cited by the claimant to the court, which were non-existent, which citations had been included, and maintained, in formal documents before the court and had never been withdrawn nor explained, notwithstanding the SRA having pointed them out well ahead of the hearing; **and that, even had the appeal been lodged in time, the use of fake citations by the claimant, who, moreover, had previously been a practising solicitor, constituted a set of circumstances in which the court ought to, and would, exercise its power to strike out the grounds of appeal as an abuse of process.**”



Challenges to DCOs





The Banner Review



Planning and Infrastructure Act 2025 s 13



Aldington & Bonnington PC v SSESNZ

The image shows the exterior of the London Luton Airport terminal building. The building has a dark grey facade with large glass windows and a set of stairs leading to the entrance. Several passengers are visible on the stairs, some with luggage. The sky is blue with some clouds. The text 'London Luton Airport' is prominently displayed on the building's facade, accompanied by a logo consisting of three stylized white shapes.

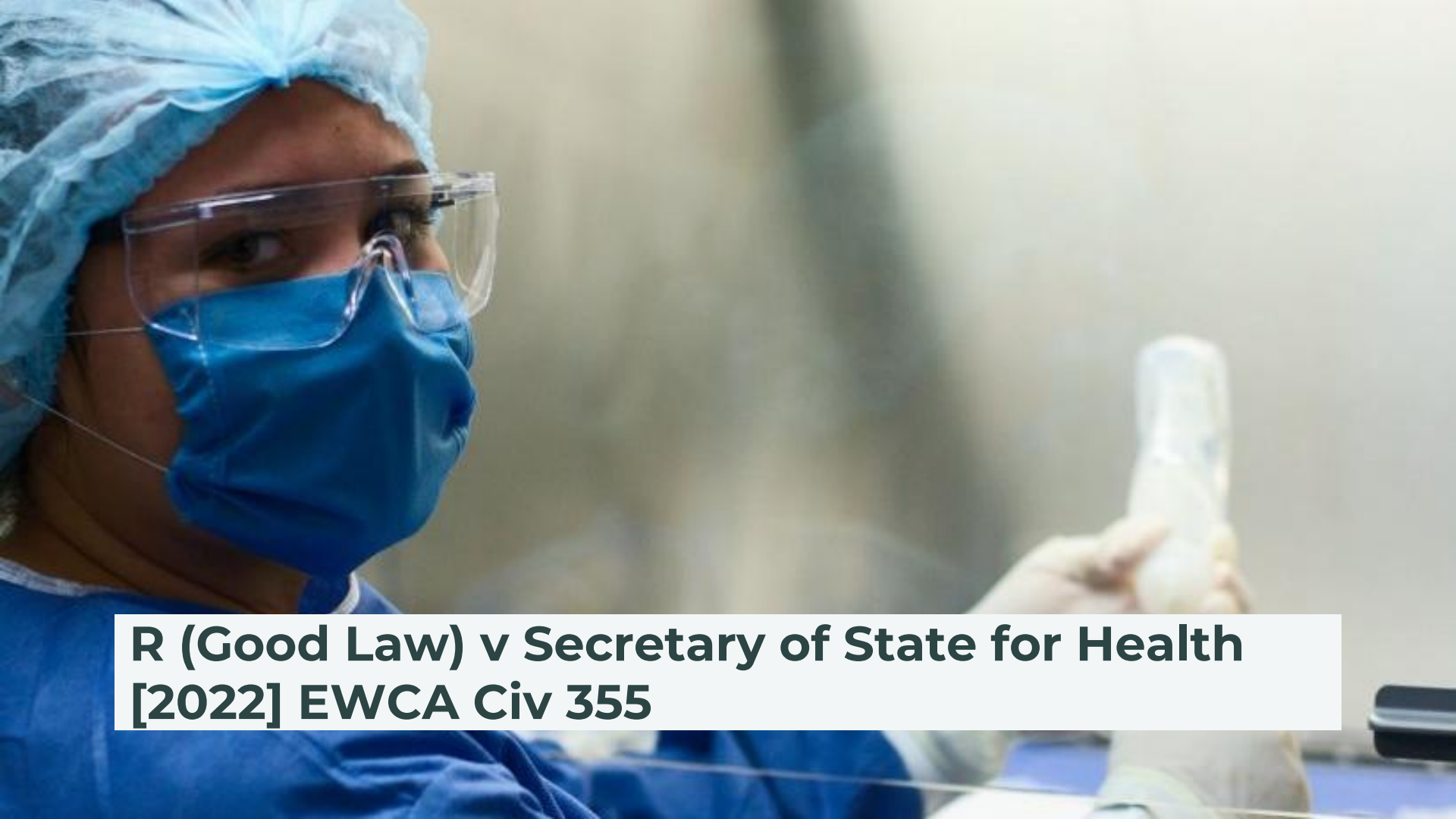
London Luton Airport

Challenge to Court of Appeal

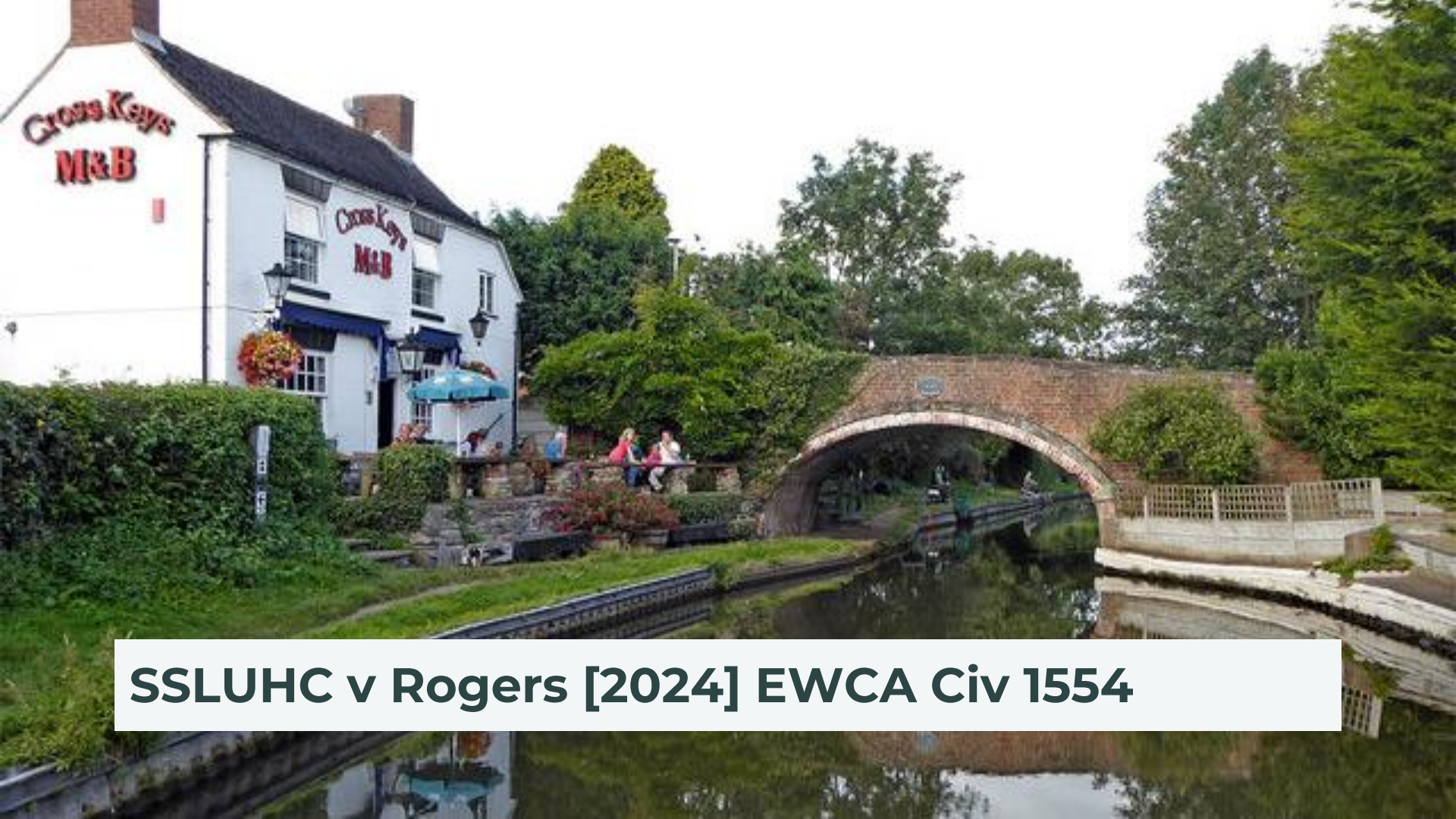


Section 288/judicial review timings



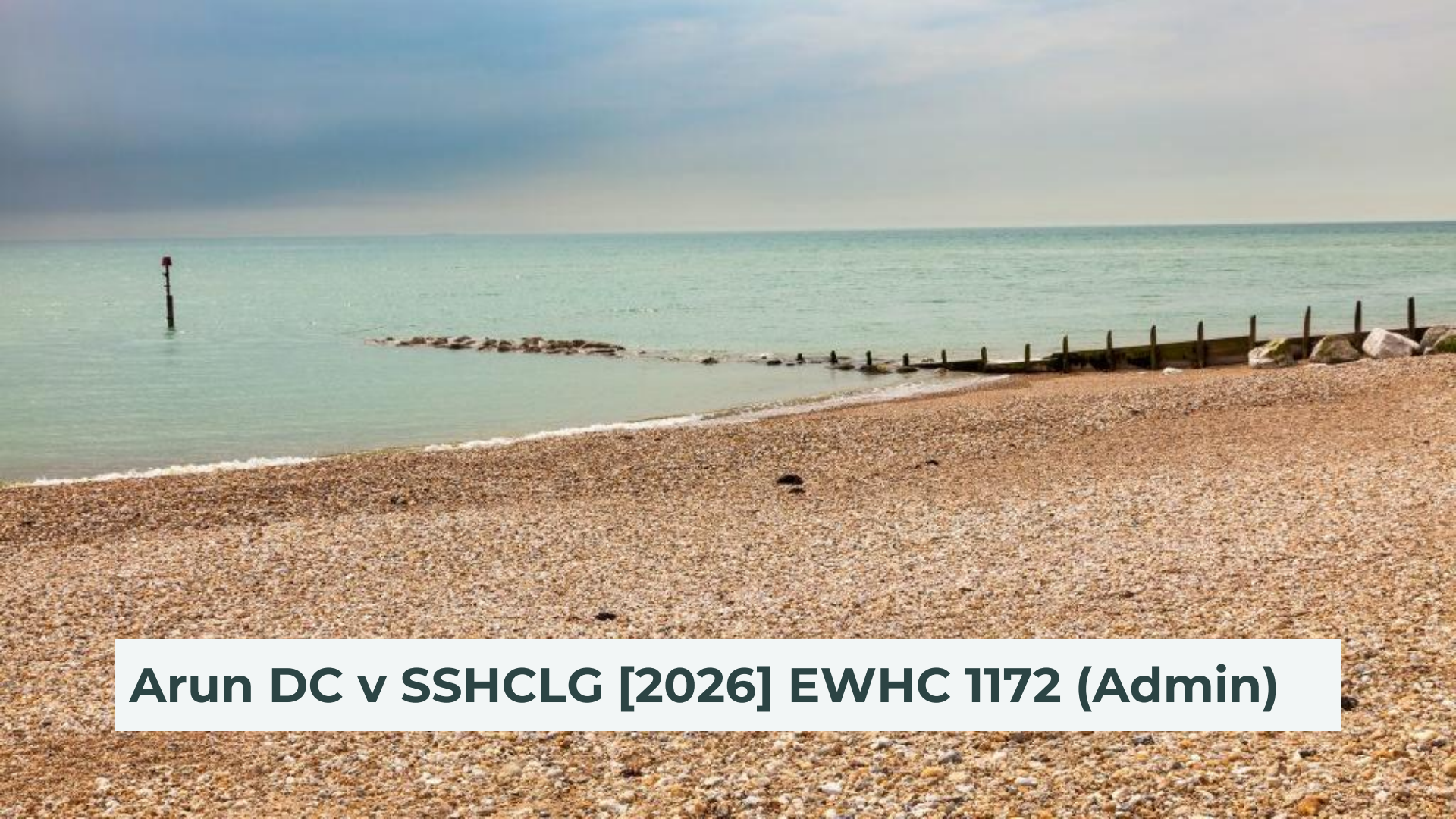


**R (Good Law) v Secretary of State for Health
[2022] EWCA Civ 355**



SSLUHC v Rogers [2024] EWCA Civ 1554

Case	Time limit	Claim form filed	Claim form issued	Claim form served	Extension of time application
Farnham Town Council	14 August	14 August	14 August	18 August	16 August
Aurora	23 November	23 November	24 November	1 December	28 February
Merrills	15 June	14 June	21 June	21 June	5 July
Home Farm	3 November	4 November	4 November	25 November	2 December
Telford	9 May	4 May (was a bank holiday weekend)	15 May	19 May	26 July
Halton BC	7/8 September	6 September	6 September	9 September	12 September



Arun DC v SSHCLG [2026] EWHC 1172 (Admin)



**Amalgamated Smart Metering v Rotherham
MBC [2025] EWHC 97 (Admin)**



Lawrence v LBC [2026] EWHC 483 (Admin)



Thank you

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