



# IN THE COURT OF APPEAL, CIVIL DIVISION

REF: CA-2025-001573



Dale Vince –v– Associated Newspapers Limited

CA-2025-001573

## ORDER made by the Rt. Hon. Lord Justice Warby

On consideration of the appellant's notice and accompanying documents, but without an oral hearing, in respect of an application for permission to appeal

### Decision:

Permission to appeal granted

### Reasons

In *Mueen-Uddin v SSHD* [2024] UKSC 21, the Supreme Court emphasised the need for clear identification and rigorous application of principle before striking out a claim as an abuse of process. Here, the judge rejected the respondent's argument, concluding that there was no abuse of the *Henderson* variety. But he held that there was nonetheless abuse. It is arguable that the judge did not identify with sufficient clarity or precision any recognised and sustainable grounds for that conclusion. I can therefore see a realistic prospect that the Court of Appeal would uphold the first ground of appeal. However, Mr Vince needs to succeed on both grounds if he is to win an appeal.

As to Ground 2, there is certainly room for argument that a court dealing with a data protection claim should not blindly import and apply the single meaning rule that applies in defamation, or the principle in *Charleston* which is a component of that rule. Both are rules of law that tend to protect freedom of expression but can, at least arguably, lead to unfairness in individual cases. The debate has been played out in the first instance decisions discussed in the judgment and the skeleton argument for Mr Vince. The issues raised under Ground 2 have wide implications. The main question on this application seems to be whether this interesting debate has any real purchase in this case. Is the respondent right to say that the judge's decision is merely a fact-specific application of the requirement of fairness to the specific processing in this case, betraying no arguable legal error?

I can see the force of that but, arguably, the outcome of a fairness complaint under the GDPR is not dictated by the fact that a libel claim on the same facts would be dismissed (as in this case it has). I do not think that is how the judge approached the matter, but the Court of Appeal might conclude that he gave too much weight to the defamation principles and the importance of legal coherence in the context of this case. Comparing the articles complained of with the amended version at tab 2 of the Supplemental Bundle this does seem to be quite a striking case on its facts. I note also that clause 1 of the Editor's Code of Practice, to which this respondent subscribes, arguably acknowledges that a headline which misrepresents the substance of the story may be inaccurate. Arguably, that has a bearing on the issue of fairness.

### Information for or directions to the parties

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### Court of Appeal Mediation Scheme (CAMS)

Where permission has been granted or the application adjourned:

a) Does the case fall within the Automatic Referral Scheme (see below)? No

#### Automatic Referral Scheme categories:

- |   |   |
|---|---|
| <ul style="list-style-type: none"> <li>• All cases involving a litigant in person (other than immigration and family appeals)</li> <li>• Personal injury and clinical negligence cases;</li> <li>• All other professional negligence cases;</li> <li>• Small contract cases below £500,000 in judgment (or claim) value, but not where principal issue is non-contractual;</li> </ul> | <ul style="list-style-type: none"> <li>• Boundary disputes;</li> <li>• Inheritance disputes.</li> <li>• EAT Appeals</li> <li>• Residential landlord and tenant appeals</li> </ul> |
|---|---|

b) If yes, is there any reason not to refer to CAMS mediation under the Automatic Referral Scheme? N/A

c) If yes, please give reason: N/A

d) Cases outside the Automatic Referral Scheme: Do you wish to make a recommendation for mediation?

No

**Where permission has been granted, or the application adjourned**

- a) time estimate (excluding judgment) 1 day
- b) any expedition none required

Signed: BY THE COURT

Date: 23 October 2025

**Notes**

- (1) Rule 52.6(1) provides that permission to appeal may be given only where –
  - a) the Court considers that the appeal would have a real prospect of success; or
  - b) there is some other compelling reason why the appeal should be heard.
- (2) Where permission to appeal has been refused on the papers, that decision is final and cannot be further reviewed or appealed. See rule 52.5 and section 54(4) of the Access to Justice Act 1999.
- (3) Where permission to appeal has been granted you must serve the proposed bundle index on every respondent within 14 days of the date of the Listing Window Notification letter and seek to agree the bundle within 49 days of the date of the Listing Window Notification letter (see paragraph 21 of CPR PD 52C).

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