



Neutral Citation Number: [2022] EWCA Civ 1053

Case No: CA-2022-000005

**IN THE COURT OF APPEAL (CIVIL DIVISION)**  
**ON APPEAL FROM THE ADMINISTRATIVE COURT**

**Lang J**

**[2021] EWHC 3368 (Admin)**

Royal Courts of Justice  
Strand, London, WC2A 2LL

Date: 26 July 2022

Before :

**LORD JUSTICE BAKER**  
**LADY JUSTICE NICOLA DAVIES**

and

**LORD JUSTICE PHILLIPS**

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Between :

The QUEEN on the application of (1) BG (by his mother  
and litigation friend SQ) and (2) KG (by his mother and  
litigation friend SQ)

- and -

Suffolk County Council

**Claimants/  
Respondents**

**Defendant/  
Appellant**

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Andrew Sharland QC and Lee Parkhill (instructed by Suffolk County Council Legal  
Services) for the Appellant

David Wolfe QC and Catherine Rowlands (instructed by Bindmans LLP) for the  
Respondents

Hearing dates : 16 June 2022  
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**Supplemental Judgment on consequentialia**

**Lady Justice Nicola Davies :**

1. Quashing of the appellant’s decision dated 12 November 2020 (paragraph 2 of draft order).

It was the clear intention of Lang J to quash the decision of 12 November 2020. The omission of the decision to quash in the order of 14 December 2021 was an error. The court will quash the decision dated 12 November 2020 in order to rectify the error.

2. Relief sought by the respondents – payment of sums which would allegedly have been paid to each respondent had the decision of 12 November 2020 not been made (paragraph 3 of draft order).

This claim was not included in:

- (i) The judicial review claim form;
- (ii) The order of Lang J dated 14 December 2021;
- (iii) The respondents’ notice in these proceedings;
- (iv) The respondents’ skeleton argument in these proceedings nor in the oral submissions made to the Court of Appeal.

3. The claim was raised for the first time in the respondents’ draft order for this court following circulation of the draft judgment to the parties. It is, in effect, a claim for restitution. If the intention was to make such a claim it should have been pleaded from the outset and raised before Lang J. It was not. It would be neither fair nor reasonable for this court to grant relief upon a new aspect of the respondents’ case at this very late stage.

**Lord Justice Phillips**

4. I agree.

**Lord Justice Baker**

5. I also agree.