

**IN THE HIGH COURT OF JUSTICE**  
**KING'S BENCH DIVISION**

Manchester Civil Justice Centre  
1 Bridge Street West, Manchester, M60 9DJ

Date: 02 November 2023

**Before :**

**Karen Ridge sitting as a Deputy High Court Judge**

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**Between :**

**HRIPSIME LAKE**

**Claimant**

**- and -**

**LANCASTER MAGISTRATES COURT**

**First**  
**Defendant**

**-and-**

**LANCASTER CITY COUNCIL**

**Second Defendant**

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**Ms Lake, the Claimant appeared in person**  
**Ms P Najah (instructed by the Solicitor to Lancaster City Council) for the**  
**Second Defendant**

Hearing dates: 13 October 2023

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**APPROVED JUDGMENT**

**Deputy High Court Judge Karen Ridge:**

1. This is the claimant's renewed application for permission to bring judicial review proceedings against Lancaster Magistrates Court in relation to two decisions relating to liability for the payment of Council Tax. The first application for permission to bring a challenge to the making of a liability order by the first defendant on 30 May 2022. The second prospective challenge is to the first defendant's refusal to state a case dated 12 September 2022.

The Proceedings to Date

2. The second defendant brought proceedings in relation to unpaid council tax liabilities of the claimant in the Magistrates Court. An application for the making of a liability order was heard on 30 May 2022 when the claimant appeared at a telephone hearing and opposed the making of the order. The order was duly made by the first defendant. Subsequently the claimant applied to the first defendant to state a case for the opinion of the High Court. This application was refused by notice dated 12 September 2022.
3. The claimant then made application to this court seeking permission to commence judicial review proceedings. The case has been characterised by the filing of multitudinous documents, containing long narratives setting out the purported basis upon which the challenges are to be brought. At the renewal hearing there are three separate bundles before the court, the core bundle runs to some 389 pages and there is a hearing bundle of 707 pages, with a separate authority bundle of 48 pages. In addition, the claimant has provided five lever arch ring binders of documents. The documents filed are not proportionate to the issues at stake, even making some allowance for the fact that the claimant is a litigant in person.
4. The matter was considered on the papers by HHJ Stephen Davies, sitting as a High Court Judge on 5 June 2023. HHJ Davies refused the application for permission and gave extensive case management directions in the event that the claimant sought to renew her application. Those directions contain clear instructions to the claimant, who has acted on her own behalf throughout, as to what she would need to do in terms of clearly stating the basis on which she was seeking to challenge the relevant decisions. HHJ Davies further pointed out that insofar as the claimant was seeking to challenge the liability order of 30 May 2022, the claim has been made well outside the time limit imposed by Part 54.5(1) of the Civil Procedure Rules, namely promptly, but in any event not later than 3 months after the grounds to make the claim first arose. He suggested that an application for an extension of time should be considered if the application were to be renewed.
5. HHJ Davies concluded that the claim for review of first defendant's certificate of refusal disclosed no legal basis for challenge. He indicated that it was not necessary for him to go on to consider any apparent challenges to the liability order since that could be done, if necessary, at any renewal hearing.
6. HHJ Davies further directed that, in the event of a renewed application, the claimant should come to the renewal hearing prepared to deal with the question

of what steps, if any, the court should take in relation to the claimant's recording of the telephone hearing before the Magistrates Court.

#### Events at the Renewal Hearing

7. At this renewal hearing I have heard at length from Ms Lake as to her position in relation to both decisions. At the outset of the hearing Ms Lake applied to be assisted by her son as McKenzie Friend. That request was granted without opposition from the second defendant. The first defendant, as is usual in cases of this nature, indicated that it would take no part in proceedings having previously filed an Acknowledgement of Service.
8. I indicated that I would deal with the issue of any alleged contempt of court by recording of the telephone hearing before the Magistrates Court at the end of this hearing. As a preliminary issue I asked the second defendant to indicate its position in relation to the professional transcript of that recording. Ms Najah indicated that there was no objection to the transcript being accepted into evidence, but she reserved her position on the question of contempt.
9. Both parties had filed skeleton arguments setting out their respective positions. Ms Najah confirmed that, whilst she had referred to an application to strike out the proceedings for abuse of process, no formal application had been made. I confirmed that because this was a permission hearing and she was contending that permission should be refused and the application certified as totally without merit, the application to strike out was somewhat otiose.

#### The Liability Order of 30 May 2022

10. The challenge to the liability order is made well outside the time limit. At the renewal hearing the claimant said that she was not making any application to extend the time in which to bring a claim because she does not accept that the liability order was properly made or that the hearing was a properly constituted court hearing. The claimant was put on notice of this requirement by HHJ Davies and has not taken any steps to address this issue. In the circumstances the challenge must fail on this basis alone.
11. Even if application had been made and time extended, I am wholly satisfied that the claimant's voluminous submissions disclose no respectable legal grounds for challenge to the liability order.
12. The challenge relates the decision of the first defendant to make a liability order pursuant to regulation 34 of The Council Tax (Administration and Enforcement) Regulations 1992. The challenge appears to have two parts: firstly, a contention that the second defendant did not have any legal basis to charge council tax because there is no contract between the claimant and the second defendant and secondly, the legal process and hearing were unfair.
13. A Local Authority's ability to set and charge Council Tax comes from the Local Government Finance Act 1992. It provides

Council tax in respect of dwellings.

(1) As regards the financial year beginning in 1993 and subsequent financial years, each billing authority shall, in accordance with this Part, levy and collect a tax, to be called council tax, which shall be payable in respect of dwellings situated in its area.

(2) In this Part “billing authority” means— (a) in relation to England, a district council or London borough council, the Common Council or the Council of the Isles of Scilly, and (b) in relation to Wales, a county council or county borough council.

14. This statute and accompanying statutory regulations set out a local authority’s rights to set and demand council tax to fund services in their local area. A person’s liability to council tax is not dependent on, and does not require, the existence of a contractual relationship between the local authority and the person liable to pay tax. Any appeal to as to the amount of council tax determined or to discounts in relation to council tax or to whether or not an individual is the correctly named individual on the council tax demand are made to the Valuation Tribunal.
15. Unpaid council tax liabilities are pursued in the Magistrates Court pursuant to regulation 34 of The Council Tax (Administration and Enforcement) Regulations 1992 which provides:

“34.—(1) If an amount which has fallen due under regulation 23(3) or (4) is wholly or partly unpaid, or (in a case where a final notice is required under regulation 33) the amount stated in the final notice is wholly or partly unpaid at the expiry of the period of 7 days beginning with the day on which the notice was issued, the billing authority may, in accordance with paragraph (2), apply to a magistrates' court for an order against the person by whom it is payable.

(2) The application is to be instituted by making complaint to a justice of the peace and requesting the issue of a summons directed to that person to appear before the court to show why he has not paid the sum which is outstanding....

... (6) The court shall make the order if it is satisfied that the sum has become payable by the defendant and has not been paid.”

16. The demand for payment was duly made in this case. The claimant does not appear to take issue with the amounts claimed. She contends that there is no statutory basis on which the local authority can demand payment for council tax. The claimant is plainly wrong. The legislation has been passed by the legislature and has received royal assent. Any challenge to the operation of such statutes falls outside the ambit of this application for judicial review.
17. I am further satisfied that all legal requirements in relation to the issue of the summons were properly complied with. The claimant contends that there are procedural irregularities in the way in which the summons is issued. The summons was in the correct format and was sent by the second defendant in the

name of Lancaster City Council. That summons contains the crest from HM Courts and Tribunal Service, it properly identifies the application for a liability order and gives instructions as to the various options available. One of those options informs the individual that they can contest liability and appear at a court hearing by telephone. The summons further sets out the facts which the local authority must prove before the making of an order. The notice further informs the individual of matters which would not constitute a defence because they are matters which should be appealed to the Valuation Tribunal.

18. The hearing was conducted by telephone and a representative from the second defendant was in attendance, together with the claimant. The claimant suggests that this was not a proper court hearing because it was not in person in a courtroom. However, the Civil Procedure Rules provide a wide discretion to courts as to how they can exercise discretion in conducting proceedings and exercising case management powers in arranging hearings.
19. It is within the rules for hearings to be conducted by telephone in cases where the interests of justice are served and access to justice is not curtailed. Indeed, there are likely to be cases in which access to justice is facilitated for some court users by the use of telephone hearings in cases where there would be difficulties in attending court. Given the nature and type of proceedings here, I am satisfied that it was entirely proper to conduct the hearing by telephone, the claimant was not placed at any disadvantage in putting her case and it was a proportionate use of technology.
20. I have read the transcript and it is apparent that the claimant was provided with ample opportunity to put her grounds for contesting the making of an order. The claimant confirmed that the hearing lasted for 27 minutes. The Magistrates Court Legal Advisor properly provided assistance by informing her as to the procedure and that she would need to convince the court that there was a genuine reason for not paying the council tax due. The claimant confirmed that she had received the summons and said that she did not see why she was being dealt with in the Magistrates Court because she has never been charged with a criminal offence. The court advisor interjects on a number of occasions to seek to re-focus Ms. Lake's submissions and to enable her to provide reasons for the liability order not being made.
21. The local authority representative confirms the amounts of unpaid council tax due. He outlines the option of payment by instalments and goes on to set out possible recovery action in the event that a liability order is made. At this point Ms Lake contends that there is no contractual obligation between herself and the council in relation to the tax, a point pursued before this court. There is then an exchange between one of the Magistrates and Ms Lake. Ms Lake appears to accept that she used to pay her council tax and then suggests that she has not paid later bills because "they are not my bills".
22. There are a number of further exchanges before the Magistrates retire and then return to announce their decision. The liability order was made as requested. Having regard to the transcript it is clear that the claimant was provided with a fair and reasonable opportunity to put her case. The second defendant had established that the property was subject to council tax, that a bill and reminder

had been sent to the claimant and that the tax remained unpaid. In those circumstances the order was properly made.

23. The claimant's various submissions reveal a number of objections to the payment of council tax, none of which have any basis in law. Her claim to be lawfully withholding council tax on the basis that it is unused for unspecified purposes, purposes such as the covid vaccination programme to which she does not agree, have no legal basis. This challenge is completely unmeritorious, and permission is refused.

The challenge to the refusal to state a case

24. An appeal to the High Court by way of case stated is made under s. 28(1) Senior Courts Act 1981. It is only available on the grounds that the order of the lower court was wrong in law or in excess of its jurisdiction.
25. Following the making of the liability order, the claimant submitted a 212-page document to the first defendant with her request for a statement of case. The first defendant refused the application on the basis that the application did not disclose any valid question of law or jurisdiction or the erroneous finding of fact. This is unsurprising given that the arguments which I have dealt with above and dismissed as having no legal foundation appear in the request. As such the first defendant stated that the application was frivolous in its opinion and certified that application refused.
26. The claimant's document setting out her request does not contain any details as to how the claimant considered the case to be wrong in law or outside the jurisdiction of the Magistrates Court. It was without any legal basis and the first defendant properly refused to state a case as requested. In my view it was properly characterised as frivolous. Therefore, the challenge to the refusal to state a case is wholly without merit and permission is refused.

The Totally Without Merit application

27. The second defendant asked that I certify the claim as being totally without merit. I explained the request to Ms. Lake and any potential consequences in terms of the future grant of a civil restraint order in the event that other applications are so certified. The claim in relation to both challenges discloses no basis in law for bringing such proceedings. The second defendant has been put to the expense of defending a frivolous claim. I am satisfied that it appropriate to certify the claim as totally without merit.

The Recording of the Magistrates Court Hearing

28. The claimant freely accepted that she had recorded the telephone hearing before the Magistrates. She has produced a transcript of that hearing undertaken by professional transcribers. The transcript begins with the court legal advisor asking the complainant to identify herself and explaining that they are calling from Lancaster Magistrates Court. The advisor introduces the second defendant's representative and informs the claimant that a liability order is being sought. At no point in the proceedings is the claimant informed that she must

not record the proceedings. She is not asked to confirm that she is not recording proceedings as would be usual with court telephone hearings and she is not informed of the implications and consequences of undertaking an unauthorised recording.

29. After considering the above facts I indicated to Ms.Lake and Ms. Najah that I did not intend to take any further action in relation to the telephone recording. Ms. Lake was informed that unauthorised recording of court proceedings is a contempt of court and a matter which the court takes seriously.

#### The Order and costs

30. Following this judgment, it is necessary for me to deal with the issue of costs. I note that the order of HHJ Stephen Davies was silent as to matter of costs. The second defendant has sought its costs of preparing the acknowledgment of service form. In addition, a schedule of costs has been prepared claiming costs in the sum of £6,378.40. I note that those costs include the costs of the hearing.
31. Civil Procedure Rule 54A, Practice Direction 7.5 provides that a defendant who attends and successfully resists the grant of permission at a renewal hearing will not usually recover from the claimant the costs of attending the hearing. A court, in considering an award of costs against an unsuccessful claimant at a permission hearing, should only depart from the general principles above if it is considered that there are exceptional circumstances for doing so. The court has a broad discretion on the facts of the case when considering whether there are exceptional circumstances which justify an award of costs against the claimant. Paragraph 25.4.5.5 of The Administrative Court Judicial Review Guide 2023 provides examples of where this may be appropriate. [Administrative Court Judicial Review Guide 2023 - Courts and Tribunals Judiciary](#)
32. I would ask that Ms Najah to prepare a draft order for my approval. The order should contain provision that the second defendant shall file and serve within 7 days their submissions on the issue of costs; the claimant shall have a further 7 days to file and serve any response to the costs application and the second defendant shall file any reply within 7 days thereafter. Each submission, response and reply shall be limited to 3 pages. The court shall determine the issue of costs in writing unless it considers a further hearing is necessary.
33. I would ask that Ms Najah to draw up the requisite draft order and send it to the Administrative Court Office for my approval.

