Neutral Citation Number: [2024] EWHC 3241 (KB)

Case No: KB-2024-CDF-000080

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

Cardiff Civil Justice Centre
2 Park Street, Cardiff, CF10 1ET

Date: 16 December 2024

**Before** :

**THE HONOURABLE MR JUSTICE PEPPERALL**

- - - - - - - - - - - - - - - - - - - - -

**Between :**

**JONATHAN BISHOP**

**Claimant**

**- and -**

**THE STUDENT LOANS COMPANY LIMITED**
**trading as**
**Student Finance Wales**
**(sued as The Student Loans Company)**

**Defendant**

- - - - - - - - - - - - - - - - - - - - -

**The Claimant** appeared in person
**Christian J Howells** (instructed by the **Browne Jacobson LLP**)
for the **Defendant**

Hearing date: 3 December 2024

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# Approved Judgment

This judgment was handed down remotely at 10.30am on 16 December 2024 by circulation to the parties by email and by release to the National Archives.

**THE HONOURABLE MR JUSTICE PEPPERALL:**

1. Jonathan Bishop is a disabled student who is in receipt of a Disabled Postgraduate Student's Grant. By these applications, Mx Bishop seeks interim injunctive relief to enforce the obligations of the Student Loans Company Limited trading as Student Finance Wales ("the SLC") in respect of the provision of the grant. Mx Bishop's core complaint is that the SLC has failed to provide them with the support recommended by needs assessments and, in particular, with continuity of support from workers employed by a community interest company called Carers, Educationalists, Anarchists, Religionists, Shippers & Writers C.I.C. ("CEARSW"). Both the underlying claim and Mx Bishop's two applications for interim relief are resisted by the SLC which asserts that the claim constitutes an abuse of process and, in any event, has no merit.

**THE STATUTORY SCHEME**

2. Section 22 of the Teaching and Higher Education Act 1998 requires regulations to be made authorising or requiring the Secretary of State to make grants or loans to eligible students in connection with their higher education courses. In Wales, such powers and duties are now conferred on the Welsh Ministers pursuant to s.44 of the Higher Education Act 2004 and Schedule 11 to the Government of Wales Act 2006. The Education (Student Support) (Wales) Regulations 2018 ("the 2018 Regulations") were made by the Welsh Ministers pursuant to the powers conferred on them by ss.22 and 42 of the 1998 Act.

3. Schedule 4 to the 2018 Regulations makes provision about Disabled Postgraduate Student's Grant. The essential scheme is as follows:
   3.1 Paragraph 1(1) defines the grant as a "grant made available by the Welsh Ministers to an eligible postgraduate student with a disability to assist with additional expenditure in respect of living costs which

the student is obliged to incur in connection with a designated postgraduate course by reason of the student's disability".

3.2 To qualify, the course must be a designated postgraduate course as defined by paragraphs 2-3 and the disabled student must be eligible within the meaning of paragraphs 4-16. Further, paragraph 17 requires that the student must make an application for the grant in relation to the particular academic year.

3.3 By paragraph 18, the Welsh Ministers may take such steps and make such inquiries as they think necessary to make a decision on an application. Such steps may include requiring the applicant to provide further information or documents.

3.4 Paragraph 18(5) provides that the Welsh Ministers must notify the applicant of a decision on an application. Paragraph 18(6) provides:

> "The notification must state–
>
> (a) whether the Welsh Ministers consider the applicant to be an eligible postgraduate student,
>
> (b) if so, whether the eligible postgraduate student qualifies for a disabled postgraduate student's grant in relation to the academic year,
>
> (c) if the student does qualify, the amount payable in relation to the academic year,
>
> (d) a breakdown specifying the amounts of grant payable in respect of each type of expenditure mentioned in paragraph 20(2), and
>
> (e) in the case of a provisional decision, the fact that the decision is provisional and the consequences of that fact."

3.5 Paragraph 20(1) provides:

> "The amount of disabled postgraduate student's grant payable to an eligible postgraduate student in respect of an academic year is the amount–
>
> (a) which the Welsh Ministers think appropriate, but
>
> (b) which does not exceed the aggregate amount of the limits applicable in respect of the Cases listed in sub-paragraph (2)."

3.6 Paragraph 20(2) provides for two cases:

a) Case 1: "Expenditure required on a non-medical helper, major items of specialist equipment and any other expenditure the eligible student incurs in connection with the course by reason

of the student's disability (apart from the expenditure specified in Case 2)." Case 1 expenditure is currently capped at £33,460 in respect of an academic year.

b) Case 2: Additional expenditure actually incurred for the purpose of attending an institution.

4. By s.23(4) of the 1998 Act, the Welsh Ministers may make arrangements for another body to exercise on their behalf any function exercisable by virtue of regulations made under s.22. Pursuant to such power, the Welsh Ministers have delegated their functions under the 2018 Regulations to the SLC. The copy of such instrument for the current academic year requires the SLC to comply with any directions that the Welsh Ministers may make as to the exercise of the delegated functions.

5. Among other matters, the SLC was required by the Welsh Ministers to apply the Welsh Government's policy on conflicts of interest. Such policy provided:

> "Due to the potential conflict of interest, DSA funding will not normally be available to any company, partnership or other organisation that is owned or controlled by the student being supported, or in which the student has a financial interest."

[While this document and others, including the parties' correspondence, evidence and submissions, referred to DSA - or Disabled Students' Allowance - it is clear that this term is being used generically and that this case actually concerns the variant payable to postgraduates.]

6. Accordingly:
   6.1 Where an application is made for a Disabled Postgraduate Student's Grant by an eligible student in respect of the additional living costs incurred in connection with a designated postgraduate course by reason of the student's disability, the SLC is under a duty to make a decision.
   6.2 Where the SLC decides that the student qualifies for the grant, it is under a duty to determine the amount that should be paid.
   6.3 In fixing the amount that should be paid, the SLC has a discretion to fix the amount that it thinks appropriate subject to the caps specified in paragraph 20(2).

6.4 In assessing applications, the SLC was required, among other matters, to apply the Welsh Government's policy on conflicts of interest.

**THE PART 7 CLAIM**

7. This claim was issued using the Part 7 procedure. By the Particulars of Claim, Mx Bishop seeks the following relief:

> "7.1 An injunction requiring the Defendant to comply with Section 13 of the Education (Student Support) Regulations 2002, specifically by providing the support workers recommended in the Claimant's needs assessment.
>
> 7.2 An order prohibiting the Defendant from preventing the Claimant from receiving support from individuals known to them, including those affiliated with [CEARSW], on the basis of an unsubstantiated conflict of interest.
>
> 7.3 A declaration that the Defendant's actions violate the Claimant's rights under Article 2 of Protocol 1 and Article 14 of the Human Rights Act 1998 and constitute disability discrimination under the Equality Act 2010.
>
> 7.4 Damages for the emotional distress and harm caused by the Defendant's failure to provide reasonable adjustments, including the prevention of educational access and the Claimant's resulting meltdowns."

8. There are some obvious issues with this formulation but the claim remains intelligible:
   8.1 The reference to the 2002 Regulations is mistaken and it is common ground that the relevant provisions in this case are the 2018 Regulations.
   8.2 Further, the references to the First Protocol and to Article 14 are obviously to the European Convention for the Protection of Human Rights and Fundamental Freedoms which was incorporated into domestic law by the Human Rights Act 1998.

9. Christian Howells, who appears for the SLC, argues that the claim seeks mandatory orders and was therefore required by r.54.2 of the Civil Procedure Rules 1998 to be brought by way of judicial review. Mx Bishop insists that the claim was properly brought by a Part 7 claim and that the

claim under the Equality Act 2010 could not be brought by judicial review.

10. These proceedings engage the rule in O'Reilly v. Mackman [1983] 2 A.C. 237, namely that as a general rule it is contrary to public policy and an abuse of process for a claimant to seek to establish that a decision is contrary to public law by way of an ordinary claim rather than by judicial review proceedings. Two obvious potential abuses in bringing an ordinary claim where the judicial review procedure should be used are that the claimant can thereby circumvent the need for permission to apply for judicial review (r.54.4), and the strict time limits requiring the claim to be made promptly and in any event within three months (r.54.5).

11. There are exceptions to the rule in O'Reilly v. Mackman where the claim concerns both public law and private claims: see, for example, An Bord Bainne Co-Operative Ltd v. Milk Marketing Board [1984] 2 C.M.L.R. 584 and Secretary of State for Transport v. Arriva Rail East Midlands Ltd [2019] EWCA Civ 2259, [2020] 1 P.&C.R. 17. It is not, however, necessary in this judgment to consider the precise ambit of the rule since the Civil Procedure Rules 1998 provide bright-line rules in respect of claims for mandatory orders against public bodies exercising a public-law duty.

12. Rule 54.2 provides that the judicial review procedure "must" be used in a claim for judicial review where the claimant is seeking a mandatory order, a prohibiting order or a quashing order.

13. As Coulson LJ observed in Arriva Rail at [57], the rules are more permissive when the claimant seeks a declaration or some other form of injunction. The judicial review procedure "may" be used to bring such claims: r.54.3(1). The rules make clear, however, that mixed claims are governed by r.54.2:

13.1 First, that is the clear effect of r.54.2 itself.

13.2 Secondly, any doubt is resolved by r.54.3(1) which adds:

> "(Where the claimant is seeking a declaration or injunction in addition to one of the remedies listed in r.54.2, the judicial review procedure must be used.)"

14. It is no answer to argue that a claim that must otherwise be brought by judicial review proceedings includes a claim for damages. Indeed, r.54.3(2) provides that a claim for judicial review may include a claim for damages provided it is not the sole remedy sought.

15. It is necessary then to analyse the relief sought in the Particulars of Claim in this case:

15.1 Paragraph 7.1 seeks an injunction requiring the SLC to comply with a public-law duty to provide support workers to Mx Bishop. It is not a private-law claim seeking to enforce a decision already made in Mx Bishop's favour; rather it is a direct challenge to the lawfulness of decisions made by the SLC in exercising the delegated duty of the Welsh Ministers to pay such disabled postgraduate student's grant as it thinks appropriate. It is, in my judgment, clearly a claim for a mandatory order requiring the SLC to exercise its delegated public-law duty. By r.54.2, such claim can only be brought by using the judicial review procedure.

15.2 Paragraph 7.2 seeks an order prohibiting the SLC from preventing Mx Bishop from receiving support from his chosen support workers on the basis of what he alleges is an unsubstantiated conflict of interest. There are both narrow and broader constructions of what Mx Bishop seeks:

a) One could take the narrow view that the order as pleaded does not require any positive action by the SLC but is only intended to prevent the SLC from interfering in Mx Bishop's own choice of support workers. Such an order would not be a mandatory order since it would not require the SLC to fund Mx Bishop's chosen support workers and could in theory be brought by a Part 7 claim. That said, there is no evidence that the SLC seeks to prevent Mx Bishop from employing anyone. The issue between the parties is as to what the SLC should fund. In any event, r.54.3(1) clearly requires a claimant seeking such an injunction in addition to a mandatory order to use the judicial review procedure.

b) Alternatively, if what is really sought is an order that requires the SLC to pay for the support of Mx Bishop's chosen support workers then that is again a claim for a mandatory order as to the exercise of the SLC's delegated public-law duty. By r.54.2, such claim can only be brought by the judicial review procedure.

15.3 Paragraph 7.3 seeks declaratory relief. In general terms, the use of the Part 54 procedure is not mandated for such claims although here it is arguable that the declaration sought is effectively a disguised claim for a mandatory order. It is not, however, necessary to consider that point further since again a mixed claim must be brought by the judicial review procedure: r.54.3(1).

15.4 Paragraph 7.4 seeks damages. While ordinarily damages could be pursued by a Part 7 claim, damages claims can be included in a judicial review claim that also seeks other relief: r.54.3(2).

16. For these reasons, Mx Bishop's substantive claims for injunctive relief were required to be brought using the judicial review procedure. There has, however, been no application to strike out the claims and the case remains in this court. That is no doubt because the parties do not appear to have considered the point before I drew the rule in O'Reilly v. Mackman to their attention a couple of days before the hearing. Further, once the penny dropped, I consider that Mr Howells was right not to ask the court to strike out the whole or part of the claim at the hearing of Mx Bishop's interim injunction applications. That would have been to ambush a vulnerable litigant in person without making any formal application. While highly intelligent, it is a feature of Mx Bishop's autism that they require proper notice of the arguments that are to be deployed against them.

**THE INTERIM APPLICATIONS**

17. Notwithstanding the issue identified in this judgment, the claim has not been struck out and the applications for interim relief are pursued. It is therefore necessary now to consider the applications.

18. There are two applications for interim injunctive relief made on 5 and 24 September 2024 each seeking two orders against the SLC. Taking them together, Mx Bishop seeks the following orders in respect of the 2024/5 academic year:

18.1 Order 1: That the SLC must provide the support workers of the type recommended in Mx Bishop's needs assessments.

18.2 Order 2: That the SLC be forbidden from preventing Mx Bishop from receiving support from "those [they know] personally directly from CEARSW, or any affiliated person whether as an employee or on a self-employed basis".

18.3 Order 3: That the SLC must meet its obligations to provide taxi support between Mx Bishop's home address in Pontypridd and places of study in Cheltenham, Gloucester and Swansea.

18.4 Order 4: That the SLC be forbidden from restricting Mx Bishop's entitlement to Disabled Students Allowance from that recommended to them by the Needs Assessor at Swansea University in this or any other way.

19. Orders 1 and 2 replicate the pleaded claims for final injunctive relief pleaded at paragraphs 7.1 and 7.2 of the Particulars of Claim. There is no pleaded equivalent of orders 3 and 4. That fact is not of itself fatal since the court may grant an interim remedy whether or not there is a claim for final relief of that kind: r.25.1(4). That said, it is not only that there is no pleaded claim for injunctive relief in respect of the provision of taxis. More fundamentally, the Particulars of Claim plead no facts or claims in respect of taxis.

20. The court may only grant injunctive relief where it is just and convenient to do so: s.37(1) of the Senior Courts Act 1981. Like any application for an interim injunction, these applications engage the well-known principles in American Cyanamid Co. v. Ethicon Ltd [1975] A.C. 396. The court must therefore consider whether there is a serious issue to be tried; the adequacy of damages; and the balance of the risk of doing an injustice (traditionally referred to as the balance of convenience).

21. Orders 1 and 3 plainly seek mandatory relief, namely orders that the SLC carry out the public duties delegated to it by the Welsh Ministers by providing the support workers and taxis sought by Mx Bishop. Although apparently prohibitory in form, order 4 also seeks mandatory relief in that, once the double negatives are worked through, it seeks an order requiring the SLC to award the recommended support. For the reasons discussed at [15.2] above, it may be that order 2 does not seek mandatory relief.

22. Notwithstanding that analysis, debate as to whether a particular application seeks mandatory (or positive) as opposed to prohibitory (or negative) relief is barren: National Commercial Bank Jamaica Ltd v. Olint Corp. Ltd (Practice Note) [2009] UKPC 16, [2009] 1 W.L.R. 1405, at [20]; Films Rover Ltd v. Cannon Film Sales Ltd [1987] 1 W.L.R. 670, at 680.

While there is no separate requirement that a mandatory injunction should only be ordered where the court has a high degree of assurance that the claim will be established at trial, the features that ordinarily justify describing an injunction as mandatory are often more likely to cause irremediable prejudice than in cases in which a defendant is merely prevented from taking or continuing with some course of action: National Commercial Bank, at [19]; Films Rover, at 680.

THE EVIDENCE

23. Any fact which needs to be proved by the evidence of witnesses on an interim application must be proved by their written evidence: r.32.2(1)(b). On the hearing of an interim application, a party may rely on three sources of written evidence: their witness statements, their statements of case, and their application notices provided that each is verified by a statement of truth: r.32.6. Documents that are relevant to a case are put in evidence by being exhibited to witness statements.

24. Further, the rules require applicants to serve their evidence (insofar as it has not already been served) together with their application notices at least three days before the hearing: r.23.7 and PD23A, para. 7.1. Evidence in response and any further evidence in reply should then be served as soon as possible and in accordance with any directions of the court: PD23A, paras 7.2-7.3.

25. The evidence before the court in this case therefore comprises:
    25.1 The parties' statements of case.
    25.2 Mx Bishop's witness statements made on 5, 24 and 30 September 2024, and 28 November 2024.
    25.3 Louise Chapman's witness statement made on 27 September 2024.
    25.4 Although called a skeleton argument and principally consisting of legal argument, I also treat Mx Bishop's skeleton argument dated 30 September 2024 as containing evidence given that it is verified by a statement of truth.

26. As I made clear during the hearing, additional documents which are simply emailed to my clerk but are not exhibited to witness statements are not evidence. In particular, the documents that were emailed to my clerk after the hearing and so after the argument had closed without either invitation or the parties' agreement are not properly in evidence.

THE ARGUMENT

27. Mx Bishop argues that the SLC has failed to provide them with non-medical help from a familiar and consistent provider as recommended by their needs assessment report; and that it has done so citing an unsubstantiated conflict of interest between Mx Bishop and CEARSW. Mx Bishop argues that they did not in fact have control over the company and that decisions were taken by the broader membership. Mx Bishop disputes that they have a financial interest in the company. Further, Mx Bishop insists that the conflict policy did not impose a blanket ban and that the SLC has acted unlawfully by failing to follow the discretionary framework established by the Welsh Government for dealing with conflicts of interest such that it has acted in breach of its duties under the 2018 Regulations.

28. Mx Bishop insists that continuity of support from known support workers employed by CEARSW is particularly important in view of the nature of their disability, and that the SLC has acted unlawfully by failing to provide such support in accordance with needs assessments. Further, Mx Bishop argues that the SLC has failed to provide taxis five days per week as recommended by their needs assessment.

29. They argue that the SLC has discriminated against them because of a matter arising from Mx Bishop's disability, and that it has failed to make reasonable adjustments for their disability contrary to ss.15 and 20 of the Equality Act 2010. Further, they argue that the SLC's actions have failed to secure Mx Bishop's right to education under Article 2 to the First Protocol without discrimination, contrary to Article 14 of the Convention.

30. Mr Howells argues that the claim is an abuse of process. He again relies on the breach of r.54.2. Further, he relies on the fact that, on 14 November 2019, His Honour Judge Lambert refused Mx Bishop's application for permission to apply for judicial review of the SLC's earlier decisions made in 2017, 2018 and 2019 in respect of their applications for Disabled Postgraduate Student's Grant. The 2017 claim was out of time while the judge found that Mx Bishop had a satisfactory alternative remedy in respect of the later years by way of statutory appeal. The claims for judicial review were found to be totally without merit. As to that history:

30.1 While the SLC has pleaded a defence of res judicata in this claim, Mr Howells accepts in argument that there might not, on analysis, have been any earlier decision on the underlying merits of the judicial review claims but rather as to the obvious availability of an alternative remedy. Mr Howells does not therefore seek to argue that the current claim is an abuse of process on the grounds of cause of action or issue estoppel or the rule in Henderson v, Henderson (1843) 3 Hare 100.

30.2 Nevertheless, Mr Howells observes that the judge directed Mx Bishop to the proper procedure, namely that they should have pursued a statutory appeal before commencing a claim for judicial review. Relying on Ms Chapman's evidence that Mx Bishop has never escalated their complaints beyond stage one, Mr Howells argues that the abuse in this case is Mx Bishop's continued failure, notwithstanding the decision in the judicial review claim, to avail themselves of the suitable alternative remedy. If not an abuse, Mr Howells relies on the availability of the alternative remedy in respect of the balance of convenience.

31. Mr Howells stresses that Mx Bishop has never been denied support through the Disabled Postgraduate Student's Grant. The SLC accepts that Mx Bishop is entitled to funding for support workers and taxis, and has been willing to fund support from alternative support workers. As to the conflict issue, Mr Howells relies on the documents filed at Companies House. He argues that CEARSW is a commercial entity and that Mx Bishop has an interest in seeing the company receive payment. Further, he submits that continuity of care could have been achieved through alternative contracting arrangements.

THE FAILURE TO USE THE PART 54 PROCEDURE

32. Here, for the reasons already explained, I conclude – at least for the purposes of these applications for interim relief – that the pleaded claims were required to be brought using the judicial review procedure and cannot properly be pursued in these proceedings. In my judgment, this conclusion gives rise to insuperable difficulties for these applications:

32.1 First, I do not consider it to be either just or convenient to order interim injunctive relief in these Part 7 proceedings when Part 54 requires the substantive claim to be pursued by a claim for judicial review.

32.2 Secondly, it is neither just nor convenient to allow the strict time limits for bringing a judicial review claim to be circumvented by

granting interim injunctive relief in these proceedings.

Such conclusions go to the heart of the court's jurisdiction to grant injunctive relief pursuant to s.37 of the Senior Courts Act 1981.

33. Further, I therefore consider that there is no serious issue to be tried in this Part 7 claim and that the balance of the risk of injustice comes down firmly in favour of not granting interim relief in this case.

34. I would therefore dismiss these applications.

THE MERITS OF THE INJUNCTION APPLICATIONS

35. These applications do not, however, simply fail because of Mx Bishop's procedural error in bringing this claim under Part 7. Even if I am wrong and these claims are properly brought under Part 7, I would in any event dismiss these applications.

36. CEARSW is a private company limited by guarantee without any share capital. As already explained, CEARSW is a community interest company. The information that is publicly available from Companies House reveals the extent of Mx Bishop's connection with CEARSW:

36.1 The officers of the company are Mx Bishop, Crocels Community Media Group Ltd, Jonathan Bishop Ltd and The Crocels Press Ltd. Mx Bishop is therefore the only natural person to be a director of CEARSW. A website entry made earlier this year shows that Mx Bishop was then the company's chairman.

36.2 Mx Bishop is also the sole director of each of the three corporate officers.

36.3 The company's filed accounts for the year ended 31 December 2023 reported:

> "*Ultimate controlling party*
>
> Mr Jonathan Bishop is considered by the directors to be the company's ultimate controlling party as he controls 71.4% (2022: 71.4%) of the membership of the company.
>
> [CEARSW] is part of the Crocels Community Media Group Limited. The group is made up of The Crocels Press Limited, Crocels Research C.I.C., [CEARSW], Jonathan Bishop Limited and

> Crocels Entertainment Europe Limited. All the companies are under the common control of the director Mr Jonathan Bishop."

37. Upon the evidence before me, it is not properly arguable that the SLC acted unlawfully by concluding that Mx Bishop controlled CEARSW and that support provided by workers employed by CEARSW should not be funded:
    37.1 First, it is not the SLC's case that there is a conflict of interest by reason of any financial interest. Ms Chapman explains that the SLC took its decision on the basis of evidence that Mx Bishop exercises a substantial level of control over the company.
    37.2 Secondly, other than bare assertion, Mx Bishop has failed to identify any evidence before the court to support the argument that they do not in fact have control over CEARSW. The self-serving provision in the company's amended Articles of Association that there is no person with significant control over the company cannot of itself affect the true position if, as shown by the records at Companies House, Mx Bishop is the only human director; is the sole director of the corporate officers; and is acknowledged in the company's own accounts as being in ultimate control of the company.
    37.3 Thirdly, and in any event, the issue is not whether Mx Bishop can now prove to the court that the company's own accounts are misleading such that the true position is that they did not have control over CEARSW. The SLC's delegated duty was to make a grant in such amount as it thought appropriate. Accordingly, it was for the SLC to assess the evidence and apply the Welsh Minister's conflict policy and not for me to substitute my own view on the basis of any evidence and argument put before the court.
    37.4 Fourthly, the SLC was plainly entitled to rely on the company's accounts. Indeed, Mx Bishop is a director of CEARSW and was under a duty to ensure that the company's accounts were accurate.
    37.5 Fifthly, as the Welsh Government pointed out in February 2021 and Ms Chapman observes, there were alternative ways of ensuring continuity of support through contracting with the preferred support workers other than through CEARSW. Support from Angel Garden has already been funded through her direct engagement and the SLC has been willing to consider directly engaging other support workers previously supplied through CEARSW.

38. A further fundamental problem is that Mx Bishop insists that the SLC should be required to provide the support recommended in their needs

assessments. The SLC's delegated duty was not simply to implement whatever was recommended but to assess Mx Bishop's applications; apply the appropriate policies including the conflict policy; and award grants in such sums, subject to the statutory limits, as it thought appropriate. Despite the fact that interim relief is sought for the 2024/5 academic year, Mx Bishop has not put in evidence any of the relevant documents for the current year. In particular, there is no application form before the court. There is a needs assessment completed as long ago as February 2021 in respect of a PhD course that was due to complete in September 2023, but nothing more recent and no evidence that it was (which seems unlikely) the relevant assessment for the purposes of Mx Bishop's application for the 2024/5 academic year. Most fundamentally, there are no decisions before me in respect of the 2024/5 year. Without such core documents, the court cannot possibly determine whether it is arguable that the SLC has acted unlawfully in respect of the decisions made in the current academic year.

39. Likewise with the taxis claim, none of the relevant documents have been put in evidence. Specifically, there are no applications, needs assessments or decisions for the 2024/5 academic year. The SLC's amended decision of 21 August 2024 in respect of the 2023/4 academic year is before the court and reveals that the SLC agreed to fund 165 return journeys from Pontypridd to the University of Gloucestershire at a cost of £276.30 per journey, 45 return journeys within the Cardiff area at a cost of £64.05 per journey, and 90 return journeys to the Swansea area at a cost of £190.65 per journey. The total cost of these approved journeys in a single academic year was £65,630.25.

40. There is simply no evidence as to what journeys have been sought, recommended or awarded for the current academic year; and no basis whatever, upon the papers before me, for concluding that it is arguable that the SLC has acted unlawfully in restricting the travel allowance in 2024/5. Further, without evidence of the recommendation, the court is being asked to order the SLC to incur an unknown cost.

41. For these reasons, Mx Bishop has failed to establish that there is a serious issue to be tried.

42. While it is unnecessary to go further, I do not accept Mr Howells' argument that, if this claim were otherwise properly brought by a Part 7 claim, it would be an abuse of process for Mx Bishop to litigate rather than exhaust his internal rights of appeal. While not an abuse, an injunction is a discretionary remedy and a failure to make use of the internal procedure would be relevant when assessing the balance of convenience. Further, I observe that these applications seek orders that the SLC provide unknown additional public funding without offering any cross-undertaking in damages. In my judgment, the balance of the risk of injustice in this case clearly comes down in favour of refusing these applications for interim relief.

DAMAGES CLAIMS

43. The applications for interim relief also seek awards of damages. Mx Bishop rightly does not seek to argue that damages might properly be awarded at this interim stage.

**CONCLUSIONS**

44. Accordingly, these applications for interim relief are dismissed and certified to be totally without merit.

45. On handing down this judgment, the issue as to whether these proceedings can continue needs to be addressed. While one option was for the court to consider whether it should strike out the whole or part of this claim pursuant to r.3.4 of its own motion, the SLC has elected to make a formal application and that matter now provides the appropriate vehicle to address this issue.

46. Further, in view of my conclusion that these applications for interim relief are totally without merit, I am now required by r.23.12 to consider whether the court should make a civil restraint order. I shall deal with that issue on handing down this judgment.