



23 June 2010

## PRESS SUMMARY

### **In the Matter of an application by 'JR17' for Judicial Review [2010] UKSC 27**

*On appeal from the Northern Ireland Court of Appeal [2009] NICA 14*

**JUSTICES:** Lord Phillips, Lord Rodger, Lady Hale, Lord Brown, Sir John Dyson SCJ

### SUMMARY

This is an appeal from the Court of Appeal of Northern Ireland. The issue is whether a pupil was unlawfully suspended from his school in County Antrim. His school fell within the area of the North Eastern Education and Library Board. The Board had prepared a Scheme governing the suspension and expulsion of pupils. It had done so pursuant to the requirement of the Education and Libraries (NI) Order 1986.

The appellant was suspended following a complaint by a girl pupil at the school of misconduct in relation to her which she insisted that the principal of the school should keep confidential. The principal suspended the appellant to protect this pupil pending a risk assessment, stating that he did so as a precautionary measure. Although he purported to suspend the pupil pursuant to the Scheme, he failed to comply with its requirements. The appellant brought proceedings for judicial review, contending that his suspension was unlawful and denied him the right to education guaranteed by the European Convention on Human Rights, contrary to the Human Rights Act 1998.

The Court of Appeal held that the principal had lawfully exercised a common law power to suspend the appellant that existed, as part of his managerial powers, in parallel with the power conferred under the Scheme.

The Supreme Court reversed this finding to the extent of holding that the principal had had no such power. Sir John Dyson, Lord Phillips and Lady Hale held that the suspension was disciplinary, or at least had been imposed in a disciplinary context, and that no common law power to suspend subsisted in these circumstances. Lord Rodger and Lord Brown held that the suspension was a precautionary measure rather than a disciplinary sanction, but that there was no common law power to suspend outside the Scheme. It followed that the suspension was unlawful.

The Court was unanimous in holding that the suspension did not amount to a denial of the right to education guaranteed by the Convention.

### NOTE

**This summary is provided to assist in understanding the Court's decision. It does not form part of the reasons for the decision. The full judgment of the Court is the only authoritative document. Judgments are public documents and are available at:**

[www.supremecourt.gov.uk/decided-cases/index.html](http://www.supremecourt.gov.uk/decided-cases/index.html)