

Case summary

Issue(s)

Whether parts of the Secretary of State's guidance on the investment of Local Government Pensions Schemes relating to UK foreign and defence policy were for an unauthorised purpose.

Facts

The Secretary of State published 'Local Government Pension Scheme: Guidance on Preparing and Maintaining an Investment Strategy Statement' ('the Guidance') on 15 September 2016. The Guidance included a provision that those administering the pension scheme should not pursue policies that are contrary to UK foreign policy or UK defence policy.

The appellants are The Palestine Solidarity Campaign Ltd, an organisation campaigning for disinvestment that would be contrary to the Guidance, and Jacqueline Lewis, a member of the local government pension scheme and the first appellant. Their judicial review of the Guidance succeeded at the first instance, on the basis that the Secretary of State, in publishing the challenged part of the Guidance, was acting outside the statutory purposes authorised by the Public Services Pensions Act 2013 and the Local Government Pension Scheme (Management and Investment of Funds) Regulations 2016. The Court of Appeal allowed the appeal of the High Court's judgment, concluding that the Secretary of State was acting within the remit of the statutory purpose.

The appellants also argued that the challenged parts of the Guidance were inconsistent with Directive 2003/41/EC on the activities and supervision of institutions for occupational retirement provision ('the IORP Directive'). The High Court dismissed this ground and the Court of Appeal agreed with that decision. That issue is not before the Supreme Court.