



**In the High Court of Justice
Queen's Bench Division
Administrative Court**

CO Ref:
CO/1725/2020

In the matter of an application for Judicial Review

The Queen on the application of (1) **MB** and (2) **DA** (a child, by his litigation friend and mother, the First Claimant) [Claimants]

Versus

SECRETARY OF STATE FOR EDUCATION [Defendant]

On the application for approval of Consent Order and application for anonymity

Following consideration of the documents lodged by the parties

Order by **Ms Margaret Obi** [sitting as a Deputy High Court]

UPON the Defendant agreeing to amend the Local Authority (Duty to Secure Early Years Provision Free of Charge) Regulations 2014 (the "2014 Regulations") following appropriate consultation.

AND upon the Defendant agreeing to make provision in those amended regulations such that the Second Claimant and any 2-year old child whose parent(s) meet the following conditions are "eligible children" for the purpose of regulation 1(2) of the 2014 Regulations:

- (a) That they are excluded from claiming public funds as a consequence of their immigration status or their lack of immigration status, but would be entitled to free two-year-old early education provision if the normal financial criteria under the 2014 Regulations were applied to them and they were entitled to access public funds; and
- (b) They are in receipt of support under section 17 of the Children Act 1989.

AND upon the Defendant agreeing that pending the proposed amendment to the 2014 Regulations it will:

- (i) communicate to all local authorities that they must treat 2-year old children whose parent(s) meet the conditions set out above as "eligible children" for the purpose of regulation 1(2) of the 2014 Regulations; and
- (ii) fund early years provision for any children who would therefore be eligible for such provision.

AND upon the Claimants' application for anonymity filed 6 May 2020.

By consent it is ordered that:

1. The identification of the Claimants is prohibited, pursuant to CPR r.39.2, and the first and second Claimants be known as "MB" and "DA", respectively.

2. The identification of the following witness be also prohibited, pursuant to CPR r.39.2: [REDACTED] and her child [REDACTED]; [REDACTED] and her child [REDACTED]; [REDACTED] and [REDACTED].
3. The Claimants have permission to withdraw the claim for judicial review.
4. The Defendant shall pay the Claimants' reasonable costs of the claim to be assessed on the standard basis if not agreed.
5. There shall be a detailed assessment of the Claimants' publicly funded costs.

Signed **Margaret Obi**

Sent to the claimant, defendant and any interested party / the claimants, defendants, and any interested party's solicitors on (date): 28/09/2020