

# Judicial Review Claim Form

In the High Court of Justice  
Administrative Court

**Notes for guidance are available which explain how to complete the judicial review claim form. Please read them carefully before you complete the form.**

| <i>For Court use only</i>          |  |
|------------------------------------|--|
| Administrative Court Reference No. |  |
| Date filed                         |  |



## SECTION 1 Details of the claimant(s) and defendant(s)

Claimant(s) name and address(es)

**name**

**address**

**Telephone no.**  **Fax no.**

**E-mail address**

Claimant's or claimant's solicitors' address to which documents should be sent.

**name**

**address**

**Telephone no.**  **Fax no.**

**E-mail address**

Claimant's Counsel's details

**name**

**address**

**Telephone no.**  **Fax no.**

**E-mail address**

1st Defendant

**name**

Defendant's or (where known) Defendant's solicitors' address to which documents should be sent.

**name**

**address**

**Telephone no.**  **Fax no.**

**E-mail address**

2nd Defendant

**name**

Defendant's or (where known) Defendant's solicitors' address to which documents should be sent.

**name**

**address**

**Telephone no.**  **Fax no.**

**E-mail address**

## SECTION 2 Details of other interested parties

Include name and address and, if appropriate, details of DX, telephone or fax numbers and e-mail

name \_\_\_\_\_

name \_\_\_\_\_

address \_\_\_\_\_

address \_\_\_\_\_

Telephone no. \_\_\_\_\_

Fax no. \_\_\_\_\_

Telephone no. \_\_\_\_\_

Fax no. \_\_\_\_\_

E-mail address \_\_\_\_\_

E-mail address \_\_\_\_\_

## SECTION 3 Details of the decision to be judicially reviewed

Decision: \_\_\_\_\_

Date of decision: \_\_\_\_\_

Name and address of the court, tribunal, person or body who made the decision to be reviewed.

name \_\_\_\_\_

address \_\_\_\_\_

## SECTION 4 Permission to proceed with a claim for judicial review

I am seeking permission to proceed with my claim for Judicial Review.

Are you making any other applications? If Yes, complete Section 7.

Yes  No

Is the claimant in receipt of a Community Legal Service Fund (CLSF) certificate?

Yes  No

Are you claiming exceptional urgency, or do you need this application determined within a certain time scale? If Yes, complete Form N463 and file this with your application.

Yes  No

Have you complied with the pre-action protocol? If No, give reasons for non-compliance in the space below.

Yes  No

\_\_\_\_\_

Does the claim include any issues arising from the Human Rights Act 1998? If Yes, state the articles which you contend have been breached in the space below.

Yes  No

\_\_\_\_\_

**SECTION 5 Detailed statement of grounds**

set out below

attached

**SECTION 6 Details of remedy (including any interim remedy) being sought**

**SECTION 7 Other applications**

I wish to make an application for:-

**SECTION 8 Statement of facts relied on**

**Statement of Truth**

I believe (The claimant believes) that the facts stated in this claim form are true.

Full name \_\_\_\_\_

Name of claimant's solicitor's firm \_\_\_\_\_

Signed \_\_\_\_\_ Position or office held \_\_\_\_\_

Claimant ('s solicitor)

(if signing on behalf of firm or company)

## SECTION 9 Supporting documents

If you do not have a document that you intend to use to support your claim, identify it, give the date when you expect it to be available and give reasons why it is not currently available in the box below.

Please tick the papers you are filing with this claim form and any you will be filing later.

- |   |                                   |                                   |
|---|-----------------------------------|-----------------------------------|
| <input type="checkbox"/> Statement of grounds   | <input type="checkbox"/> included | <input type="checkbox"/> attached |
| <input type="checkbox"/> Statement of the facts relied on   | <input type="checkbox"/> included | <input type="checkbox"/> attached |
| <input type="checkbox"/> Application to extended the time limit for filing the claim form   | <input type="checkbox"/> included | <input type="checkbox"/> attached |
| <input type="checkbox"/> Application for directions   | <input type="checkbox"/> included | <input type="checkbox"/> attached |
| <input type="checkbox"/> Any written evidence in support of the claim or application to extend time   |                                   |                                   |
| <input type="checkbox"/> Where the claim for judicial review relates to a decision of a court or tribunal, an approved copy of the reasons for reaching that decision |                                   |                                   |
| <input type="checkbox"/> Copies of any documents on which the claimant proposes to rely   |                                   |                                   |
| <input type="checkbox"/> A copy of the legal aid or CSLF certificate <i>(if legally represented)</i>  |                                   |                                   |
| <input type="checkbox"/> Copies of any relevant statutory material  |                                   |                                   |
| <input type="checkbox"/> A list of essential documents for advance reading by the court <i>(with page references to the passages relied upon)</i>                     |                                   |                                   |

Reasons why you have not supplied a document and date when you expect it to be available:-

Signed \_\_\_\_\_ Claimant ('s Solicitor) \_\_\_\_\_

**Regina (on the application of John Allman)**  
v  
**The Secretary of State for Constitutional Affairs**

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**Grounds for Judicial Review**

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**SECTION 5 Detailed statement of grounds**

The Gender Recognition Act 2004 (“GRA”) violates my human rights as a heterosexual Christian male in selecting a sexual or marriage partner, in particular by allowing the falsification of the birth certificates of “trans persons”. The GRA goes out of its way to prevent me from ascertaining the true birth gender of a prospective sexual or marriage partner, which is of vital importance to me as a Christian male who is in mortal fear of having a sexual relationship with someone who is biologically male by birth. The lengths to which the GRA goes in protecting “trans persons” are also disproportionate and indeed irrational to the point of *Wednesbury* unreasonableness, as the whole of the GRA is predicated upon unproven medical theories of dubious authority. Therefore, any decision to bring the GRA into force will likewise be disproportionate and unreasonable.

In sum, I am a victim within section 7(1) and (7) of the Human Rights Act 1998 of any decision to bring the GRA into effect.

The detailed grounds of my claim are as follows:

A. Violation of my “right to freedom of thought, conscience and religion” under Article 9 of the European Convention of Human Rights: The GRA infringes my right as a heterosexual Christian male to choose as a sexual or marriage

partner only someone who is biologically female and who has been so since birth. By allowing the issue of birth certificates showing the acquired gender of transsexuals as their gender at birth the GRA leads not only to the falsification of historical fact but also makes it very difficult for a potential marriage partner to ascertain the true birth gender of a “trans person”.

The relevant sections of the GRA are:

- \* section 1, which lays down eligibility to apply for a “gender recognition certificate” and gives effect to Schedule 1.
- \* Schedule 1, which makes provision for “Gender Recognition Panels” to decide the outcome of applications for “gender recognition certificates”.
- \* section 4, which stipulates that where a “Gender Recognition Panel” has granted an application, it must issue a “gender recognition certificate” to the applicant.
- \* section 9, subsection (1) of which provides that “Where a full gender recognition certificate is issued to a person, the person’s gender becomes for all purposes the acquired gender (so that, if the acquired gender is the male gender, the person’s sex becomes that of a woman).”
- \* section 10, which establishes the mechanisms by which “a person to whom a full gender recognition certificate is issued” is entered on a “Gender Recognition Register” (“GRR”) which is not open to public inspection or search and which gives effect to Schedule 3.
- \* Schedule 3, which obliges the Registrar General to make an entry in the GRR for everyone with a gender recognition certificate and to mark the original birth entry of the trans person concerned to show that the original entry has been superseded. If an applicant for a birth certificate of such a person refers to the person by the name recorded on the GRR (i.e. the name in the acquired gender that the trans person has assumed), they will receive a birth certificate compiled from the entry in the GRR, i.e. a falsified birth certificate.

\* section 11, which gives effect to Schedule 4, paragraphs 4 to 6 of which amend the Matrimonial Causes Act 1973 to allow the unwitting marriage partner of someone with a “gender recognition certificate” to seek the annulment of the marriage. This is no solution to the problem, which would not have arisen in the first place in the absence of the GRA. It is really an attempt to slam the stable door after the horse has bolted.

\* Schedule 4, paragraph 3, which amends the Marriage Act 1949 by inserting a provision (as section 5B) that:

“A clergyman is not obliged to solemnise the marriage of a person if the clergyman reasonably believes that the person’s gender has become the acquired gender under the Gender Recognition Act 2004.”

This is no solution, in view of section 22 (see below).

\* section 22, which makes it a criminal “offence for a person who has acquired protected information in an official capacity to disclose the information to any other person”, the “protected information” in question being information relating to the true birth gender of a “trans person”. So a clergyman would be guilty of a criminal offence if he revealed this information to the unwitting prospective marriage partner of a “trans person”.

**B. Violation of my right under Article 8 of the European Convention on Human Rights, which provides that “Everyone has the right to respect for his private and family life, his home and his correspondence”.**

“Private and family life” covers (inter alia) personal, sexual and marital relationships. The GRA interferes with my free choice in these areas by perpetrating a fraud on the veracity of official documents, including birth certificates, which purport to record historical facts. The relevant sections of the GRA are the same as those cited under (A), above.

**C. Violation of my right to “freedom of expression” under Article 10 of the European Convention of Human Rights, which includes “freedom to hold**

**opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers”.**

The GRA violates in particular my right to receive true and accurate information regarding the birth gender of a prospective sexual or marriage partner. The relevant sections of the GRA are the same as those cited under (A), above.

**D. Violation of my right under Article 12 of the European Convention on Human Rights: “Men and women of marriageable age have the right to marry and to found a family, according to the national laws governing the exercise of this right”.**

By allowing the falsification of the birth gender of “trans persons” the GRA infringes my rights under this article as a heterosexual Christian male. The relevant sections of the GRA are the same as those cited under (A), above.

The GRA was passed largely in response to the unanimous decision of the European Court of Human Rights on 11 July 2002 in *Christine Goodwin v The United Kingdom* (application number 28957/95), which, by glossing over the phrase “according to the national laws governing the exercise of this right”, must be considered to have been wrongly decided. However, the GRA goes considerably further than this judgment, which was concerned only to post-operative transsexuals, whereas the GRA is applicable also to “trans persons” who have not undergone “gender reassignment” surgery, including some who have no intention of so doing.

The Strasbourg court in Christine Goodwin’s case admitted that “though there is widespread acceptance of the marriage of transsexuals, fewer countries permit the marriage of transsexuals in their assigned gender than recognise the change of gender itself.” But the Court still concluded: “The Court is not persuaded however that this supports an argument for leaving the matter entirely to the Contracting States as being within their margin of appreciation. This would be tantamount to finding that the range of options open to a Contracting State included an effective bar on any exercise of the right to marry. The margin of appreciation cannot extend so far.” [Para 103].

**E. Discrimination: Article 14 of the European Convention on Human Rights.**

Article 14 provides that “The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.” The GRA discriminates against me on grounds of sex, religion and opinion so as to infringe my rights under Articles 8, 9, 10 and 12. The relevant sections of the GRA are the same as those cited under (A), above.

#### **F. Freedom of Information Act 2000.**

The GRA runs clean counter to the whole spirit of the Freedom of Information Act 2000, whose purpose is to make public records more accessible and transparent. As with most other public records, it is a very simple matter to obtain a copy of the genuine birth certificate of anyone, unless that person happens to be the subject of a “gender recognition certificate”, in which case the “birth certificate” provided by the Registrar General will contain a false birth gender (unless the applicant happens to know the name of the “trans person” at birth, which is most unlikely to be the case).

#### **G. Proportionality.**

It is hard to see how the GRA could possibly succeed in its purpose of preventing discrimination against “trans persons” by falsifying the record so as to hide the fact that the persons concerned had ever been of a gender other than their “acquired” gender. Indeed, implementation of the GRA is likely to result in more extensive discrimination. For, as the GRA will make it virtually impossible to check the relevant documentation relating to birth gender, people will continue to discriminate against those perceived to be transsexuals, whether they are or not.

But, even if the GRA were to succeed in marginally reducing discrimination against “trans persons”, the cost would be disproportionate if this could only be achieved at the expense of the veracity of public records coupled with discrimination against those, like the claimant, whose rights would be infringed if they were unable to rely on such records.

#### **H. *Wednesbury* unreasonableness.**

If ever there was an irrational decision it would be the decision to implement the GRA. In particular, the decision to bring into being a whole system of fictitious “birth certificates” must qualify as so unreasonable that no reasonable person could ever have reached such a decision, thereby qualifying as *Wednesbury* unreasonable. This unreasonableness can only be exacerbated by the fact that the whole of the GRA is predicated upon unproven medical theories of dubious authority. In the words of Lord Chan, a distinguished paediatrician, in the second reading debate on the GRA in its passage through the House of Lords on 18 December 2003:

“The ruling of the European Court [of Human Rights in Christine Goodwin’s case] supports a situation in which personal feelings and beliefs are given precedence over verifiable medical evidence. In support of that are four reports, which I have read, of men who were labelled as transsexual or having a gender identity disorder, but who no longer feel that they are women, and, a few years later, function normally as men. That demonstrates that the condition of some transsexuals is not permanent or lifelong.

.....

[Referring to what is now section 2, on the determination of applications for a gender recognition certificate]: “No mention is made of undergoing reconstructive surgery of the genital organs. It is therefore likely that individuals applying for gender recognition certificates will continue to be men with male sexual organs. About half of male transsexuals have not undergone surgery. If they are then given gender recognition certificates classifying them as females, serious consequences would affect their partners, children and other people, including women who use public toilets.

.....

More medical research is needed into transsexual people in order to provide them with appropriate support. The Gender Recognition Bill assumes that the condition is already a discrete and clearly agreed medical condition, which is not the case. Therefore, I fear that the Bill would infringe the rights of third parties.” [Columns 1307-1308, 18 December 2003].

# **Regina (on the application of John Allman)**

v

## **The Secretary of State for Constitutional Affairs**

### **SECTION 8 Statement of facts relied on**

- 1) The applicant is male and heterosexual in orientation. He describes himself as a "conscientious heterosexual person".
- 2) The applicant's strict religious beliefs require him to be quite certain beforehand that the birth gender of anyone whom he marries, or with whom he has a sexual relationship, is female.
- 3) The applicant's very strong personal aesthetic preferences as touching his own private life also require him to know beforehand that the birth gender of anyone whom he marries, or with whom he enters into a sexual relationship, is female.
- 4) The applicant also requires to know the true birth gender of anybody who is a part of his private and/or family life insofar as that person might be employed to work in the applicant's home, for example as a nurse or carer.
- 5) Since the applicant became acutely aware, during the year 2000, that appearance is not nowadays a completely reliable method of determining anyone's birth gender, he has generally been extremely careful to refrain from having any sexual relationships whatsoever with, or marrying, any apparent women whose birth gender he has not yet been able to verify beforehand.
- 6) It has been the custom worldwide for official documents that record the bearer's gender to record birth gender, particularly in the case of birth certificates, when to record any other kind of gender amounts to a misnomer of the document, if not a fraud. In the cases of most people, especially those whom one meets for the first time only late in one's life and theirs, the examination of an official document has often been the only practicable method of verifying birth gender. The applicant has been reliant upon this custom, of the accurate recording of birth gender on official documents, in the conduct of his private life, that of a conscientious heterosexual person.
- 7) Since the year 2000, the examination of an official document has been the only method that the applicant has ever used to verify the birth gender of any apparent women to whom he has been sexually attracted, for the purposes concerned with his own private life stated above. For example, in 2002, the applicant examined the passport of the woman with whom he is presently living, in order to check that her birth gender was female, before entering into a sexual relationship with her.

8) The United Kingdom of Great Britain and Northern Ireland has passed an Act of Parliament known as the Gender Recognition Act (q.v.). This provides for the issue to transgendered persons of "birth certificates" which show the person's gender as the opposite of their factual birth gender.

9) If the Act is implemented, no further "decision" would need to be made, for example a decision concerning the applicant individually, nor would any further decision need to be communicated directly to the applicant individually, in order to produce the infringement of his Human Rights claimed herein, as follows.

10) The effect of the Gender Recognition Act is to make the examination of official documents (in particular, birth certificates) an unreliable method of checking birth gender. Such checking of true birth gender is a task which all conscientious heterosexual persons, such as the applicant, are obliged to complete, before that can contemplate or enter into a sexual relationship with someone new in their lives, or contract or consummate a marriage. For a great many women, perhaps the overwhelming majority of them, whom the applicant might meet and to whom he might be sexually attracted during the remainder of his life, no alternative practicable and reliable method of checking birth gender will be available. The Gender Recognition Act has been so drafted as to ensure this curtailment of the applicant's freedom to check birth gender even for purposes connected with his own private and family life, including marriage. The applicant is forced to make this application because he finds this curtailment of his rights intolerable.

11) The applicant therefore apprehends already that the implementation of the Gender Recognition Act would force him either: (1) to abandon immediately those strict beliefs and strong preferences as touching upon his own private life which compelled him in the first place to become the conscientious heterosexual person he is (which abandonment of his beliefs and preferences is not possible for the applicant), or (2) to endure, for the remainder of his natural life (or until the Act be repealed, and all that ensues from its enactment rectified), a drastic restriction upon how (that is to say, with whom) he will be able to conduct his future private and family life, especially any sexual aspect thereof.

12) In particular, the applicant is in peril, because of the Gender Recognition Act, of later in his life "marrying" unawares someone whose birth gender is male. The Act implicitly acknowledges this peril, by providing that in this event the applicant would be entitled to apply for an annulment of any such "marriage" retrospectively, if he discovered that he had been deceived into marrying a transgendered "bride". But the remedy of annulment of any such marriage, after what the applicant would regard as serious and irreparable "damage" had already been done to his private life, by his contracting and "consummating" the said marriage in the first place, would be an inadequate remedy for the applicant in these circumstances, or for anybody else with the applicant's particular beliefs and preferences, or for any other "conscientious heterosexual person". Thus the applicant's future freedom to contract a marriage at all is restricted drastically by the passage of the Act.

13) If, as is clearly possible, the applicant found that the apprehended peril of perhaps marrying a transgendered bride unawares looked more likely than at present to

materialise, more than the relevant limitation period after the implementation of the Gender Recognition Act (which would be the "decision" from which that particular head of damage to his private life ensued), by then it would be too late for him to make application to the European Court of Human Rights in respect of the offending decision, namely the passage of the Gender Recognition Act. Hence (in part) the appropriateness of the applicant to making this application, today.

14) There are similar infringements entailed in the Gender Recognition Act of the applicant's right to ascertain what he needs to know in order to be able to treat the transgendered differently from others, consistently with his beliefs and insofar as far as his private and family life are concerned, in connection with choosing whom he might employ to work, and perhaps to live, in his own home, employed as (for example) a nurse or carer for the applicant or any of his family members.

# Case Number CO/746/2005

**Regina (on the application of John Allman)**

v

**The Secretary of State for Constitutional Affairs**

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## **Grounds for Renewing the Application for Judicial Review**

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### **Form 86B section 3 : statement of grounds**

**In reply to Mr Justice Richards' "Observations":**

1. "It cannot be unlawful or unreasonable for the Secretary of State to bring into force an Act of Parliament which was passed to give effect to a judgment of the Strasbourg Court." Yes it can, if the method by which the Act remedies one infringement of rights is so flawed that a new and avoidable infringement of rights is created. Besides, the Gender Recognition Act (GRA) goes well beyond any judgment of the Strasbourg Court and arguably misinterprets the judgment in question. The GRA not only gives transgendered persons "legal recognition" in their acquired gender. It also *prevents* their original, God-given, natural, biological, *birth* gender from being "recognised" (in a different sense of the verb "to recognise") by prospective spouses and other sexual partners, to the detriment of the latter's private and family lives.
2. "...[T]he Act does not give rise to any arguable breach of the claimant's Convention rights: either there is no interference with such rights or any interference is justified as a proportionate means of protecting the rights of 'transsexual persons.' " The judge's resort to the second of the two alternatives amounts to an admission on his part. He is admitting that he

could not be certain when he compiled his "Observations" that there was not at stake an issue of *balancing* the rights of the claimant against those of "transsexual persons". He appears simply to have *assumed* that any issue of proportionality must have been addressed justly in the GRA. Yet the admitted presence of this issue of proportionality surely cries out for the claimant to be given a fair opportunity to argue in court that it is the GRA itself and not his claim that is disproportionate.

3. Proportionality is indeed relevant here. The claimant will show that it is disproportionate to protect alleged rights of transgendered persons in the way that the GRA does: i.e. by falsifying public records, namely birth certificates, even when these are issued for the purposes of applying for marriage licences.
4. It is perhaps worth reminding the court at this point that a proposed amendment to the Bill was rejected during its passage through the Lords, an amendment whereby a more historically complete and accurate kind of birth certificate would have been needed to obtain a marriage licence (etc) than would be needed when (say) merely applying for an office job. A birth certificate requested explicitly for the purposes of marriage and therefore valid for those purposes would have disclosed the whole truth. An amendment making exceptions for sporting bodies was, however, adopted. Why not for marriage?
5. The claimant is not contending in this court that *no gender recognition Act whatsoever* should have been passed or implemented. He is merely contending that the particular GRA that actually was passed is flawed. It is flawed principally because the particular amendment mentioned at 4 above was not applied to the Bill before the Act was passed. That amendment would have protected the claimant from the risk of marrying a transgendered person unawares, and would have been very likely indeed to have prevented the present claim, because it would have given the claimant a method of

protecting his private and family life from the most serious risks to which the GRA would expose him raised in this claim.

6. The GRA, if implemented, places Jews, Christians, Muslims and others with beliefs similar to those of the claimant at risk of having to choose between (a) most likely remaining sexually inactive for the rest of their lives, and (b) giving up their religious beliefs if they wish to avoid lifelong celibacy, something which they should not (in effect) be *required* by the UK government to do.
7. Moreover, the purported "right" of transsexual persons which is being balanced, for the purposes of *this* claim, against the rights of the claimant is their purported right to conceal their biological gender from prospective and actual spouses and sexual partners, at least until after a "marriage" has been contracted and "consummated", or a sexual relationship otherwise begun. It is contended vigorously by the claimant that the convention confers no such purported right upon the transgendered, a "right" to deceive prospective or actual spouses or sexual partners as to their true gender, and that the Strasbourg judgment concerned nowhere sets out to uphold any such purported right to deceive, or acknowledges the existence of any such right to deceive in this manner.
8. Does the claimant satisfy the "victim" test? This is not addressed in the judge's "Observations". It is certainly arguable on the basis, inter alia, of the case of *Norris v Ireland* (1988) 13 EHRR 186. In *Norris v Ireland*, the successful claimant was a homosexual who merely faced a risk of being prosecuted for practising his preferred sexual practices. That risk to Mr Norris (of prosecution) was *accepted* to be a human rights violation, even though it was a risk that had not materialised.
9. The claimant in the present case is also exposed to a risk, albeit a different risk from that which Mr Norris faced. The risk faced by the claimant is the risk of becoming unable to marry or even (speaking colloquially) "to have a

sex life" without changing his religious beliefs, something which he cannot do, and should not be expected to do. The principle established in Norris was that merely exposing somebody to a risk can infringe their convention rights. The Norris judgment did not depend upon the content of the risk which Mr Norris faced, which happens to be a risk different in content from the risk to which the GRA exposes the claimant.

10. The claimant is not the only victim of the GRA. The political correctness and unproven science of the GRA lulls those with the "mental illness" of "gender dysphoria" into a false sense of security that a person's gender can be changed, are also victims. (See for example the extract from a speech by Lord Chan in the House of Lords cited in the Grounds submitted with the Claim Form in this case). If the transgendered persons are themselves victims, this rather knocks out the point made by the judge that the GRA is "a proportionate means of protecting the rights of transsexual persons" or indeed that the GRA protects those rights at all but rather betrays them.

11. The GRA is also arguably incompatible with the Human Rights Act 1998, and in particular with Arts 8, 9 and 10 of the European Convention on Human Rights.

12. "The claim is unarguable." The claim is unarguable only if the court, a public authority within the Human Rights Act, is prepared to set its face against allowing it to be argued, by withholding from the claimant any opportunity to argue the claim, thus infringing the claimant's Article 10 right to freedom of expression, silencing him on the basis of unproven "science", coupled with political correctness.

The claimant hereby requests an oral hearing, before a different judge, of his application for permission to apply for Judicial Review. Furthermore, he requests that this Form 86B request for an oral hearing should also be considered by a different judge.

## The Alliance For Change

98 High Street, Knaresborough, N Yorks. HG5 0HN

[info@AllianceForChange.co.uk](mailto:info@AllianceForChange.co.uk) +44 7930 519793 [www.AllianceForChange.co.uk](http://www.AllianceForChange.co.uk)

**PRESS RELEASE - 21 APRIL 2005**

### **GENDER RECOGNITION ACT LITIGANT GOES POLITICAL**

John Allman, a litigant in an ongoing Human Rights Act-based Judicial Review case challenging the Gender Recognition Act first brought in February 2005, against the Secretary of State for Constitutional Affairs, in which case a hearing might possibly take place *during the election campaign period*, or just afterwards, is standing for Parliament as one of the Alliance For Change candidates, raising as an election issue the same issue as is being raised in the court case.

The candidate's election address mailing includes the following text:

I'd also like to mention that I am presently taking the Secretary of State For Constitutional Affairs to court, challenging the Gender Recognition Act. I think that you should have the right to know if somebody you are planning getting married to has had a "sex change". Don't you?

This candidate is not a "single issue" candidate, "obsessed" with this one particular human rights issue. His election address leaflet (copy available on request) is actually quite balanced and wide-ranging.

The candidate states: "It is plainly iniquitous to implement a law saying that a bridegroom, for example, has no right to *know* that his bride is really another man, who, because he was suffering from the 'mental illness' of 'gender dysphoria', has had medical treatment, including genital surgery, to disguise his true birth gender, and on whose behalf a government agency has issued a falsified birth certificate, falsely stating that the bride is a real woman. It's simply not fair. In my view, a person's gender is not something that can *really* be changed. Even if gender *were* something that *could* be changed, in any scientifically meaningful sense, people like me should *still* have their strong personal and religious beliefs, that gender cannot *really* be changed, respected, especially when not to respect their beliefs might affect their own private and family lives, even in their own bedrooms."

"The plot of the movie Weapons of Mass Distraction revolved around the tragic plight of a fictitious male character who discovered, to his horror, that he had 'married' a 'transgendered' male unawares, thinking mistakenly that he had married a real woman. Anybody who has been following the Big Brother TV programme should know that this could easily happen in the UK in *real life*, to *anybody*, if the Gender Recognition Act is implemented. That would not be *fair*. The Act leaves utterly defenceless those who merely want to be *allowed to care* what sex their spouses really are, and to be protected from suffering the deception which the fictitious character in the movie suffered. The Act means that practically nobody with the candidate's beliefs (e.g. Moslems, Jews, Christians, and politically incorrect *scientists*) can safely get married *at all*. Hence the essential legal challenge now underway."

For more information, please contact the candidate himself in the first instance, at [John.Allman@AllianceForChange.co.uk](mailto:John.Allman@AllianceForChange.co.uk), or using phone number +44 7930 519793, with a view to liaising subsequently directly with the candidate's solicitor.

John Allman

Convenor, The Alliance For Change

# The Alliance For Change

98 High Street, Knaresborough, N Yorks. HG5 0HN

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## PRESS RELEASE - 3 JUNE 2005

### GENDER RECOGNITION ACT CASE HEARING SET FOR MONDAY 27 JUNE 2005

John Allman is the applicant in a Human Rights Act-based Judicial Review application first brought in February 2005, against the Secretary of State for Constitutional Affairs. He is challenging the Gender Recognition Act.

Mr Allman also raised the serious human rights implications of the Gender Recognition Act in his candidate's election mailing, when standing as the "Alliance For Change, human rights first" Parliamentary candidate in Harrogate and Knaresborough constituency.

The candidate's election address mailing included the following text:

I'd also like to mention that I am presently taking the Secretary of State For Constitutional Affairs to court, challenging the Gender Recognition Act. I think that you should have the right to know if somebody you are planning getting married to has had a "sex change". Don't you?

This candidate was not a "single issue" candidate, concerned only with this one particular human rights issue. His election address leaflet reprinted the human rights-centred Core Policies of the Alliance For Change in full. These may be read on the Alliance For Change website.

The candidate stated: "It is plainly iniquitous to implement a law saying that a bridegroom, for example, has no right to *know* that his bride is really another man, who, because he was suffering from the 'mental illness' of 'gender dysphoria', has had medical treatment, including genital surgery, to disguise his true birth gender, and on whose behalf a government agency has issued a falsified birth certificate, falsely stating that the bride is a real woman. It's simply not fair. In my view, a person's gender is not something that can *really* be changed. Even if gender *were* something that *could* be changed, in any scientifically meaningful sense, people like me should *still* have their strong personal and religious beliefs, that gender cannot *really* be changed, respected, especially when not to respect their beliefs might affect their own private and family lives, even in their own bedrooms."

"The plot of the movie Weapons of Mass Distraction revolved around the tragic plight of a fictitious male character who discovered, to his horror, that he had 'married' a 'transgendered' male unawares, thinking mistakenly that he had married a real woman. Anybody who has been following the Big Brother TV programme should know that this could easily happen in the UK in *real life*, to *anybody*, if the Gender Recognition Act is implemented. That would not be *fair*. The Act leaves utterly defenceless those who merely want to be *allowed to care* what sex their spouses really are, and to be protected from suffering the deception which the fictitious character in the movie suffered. The Act means that practically nobody with the candidate's beliefs (e.g. Moslems, Jews, Christians, and politically incorrect *scientists*) can safely get married *at all*. Hence the essential legal challenge now underway."

Copies of the relevant legal papers are readable via a link on the Alliance For Change website.

For more information, please contact the candidate himself in the first instance, at [John.Allman@AllianceForChange.co.uk](mailto:John.Allman@AllianceForChange.co.uk), or using phone number +44 7930 519793.

## The Alliance For Change

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**PRESS RELEASE - 27 JUNE 2005**

### **JUDGE RIDICULES SUPPOSED RIGHT TO KNOW ONE'S SPOUSES TRUE GENDER**

John Allman, who is standing in the Cheadle by-election, was the applicant in a Human Rights Act-based Judicial Review application first brought in February 2005, against the Secretary of State for Constitutional Affairs. He was challenging the Gender Recognition Act, which allows for falsified birth certificates to be issued to those who have had so-called "sex changes", or "gender reassignment", to use the politically correct language.

In the High Court today, permission to apply for judicial review was refused. Mr Justice Sullivan presided. (One must suppose that he is a judge, and a good judge too, for judging's his job, and a good job too.) Sullivan ridiculed the very idea that anybody would use the genders written on British birth certificates to check that one party to a marriage was born male and that the other was born female.

The claimant is awaiting a transcript of the judgment, bewildered because he had supposed that that was *exactly* the purpose of the requirement in the Marriage Act 1840 for birth certificates to be tendered before a marriage could take place. The growth since 1840 of a "gender reassignment" industry has made the need for this safeguard greater, not less. The Gender Recognition Act permits the transgendered to marry in their acquired genders. A vicious side effect of the method of permitting this is that the Act adopted is that the transgendered can also *trick* people who would *care* (if they knew about it) into marrying transgendered spouses unaware of their true birth genders.

The judge refused leave to appeal, which could shorten the road to Strasbourg considerably.

Copies of relevant legal papers are readable via a link on the Alliance For Change website.

For more information, please contact the candidate himself in the first instance, at [John.Allman@AllianceForChange.co.uk](mailto:John.Allman@AllianceForChange.co.uk), or using phone number **+44 7930 519793**.

CO/746/2005

Neutral Citation Number: [2005] EWHC 1910 (Admin)  
IN THE HIGH COURT OF JUSTICE  
QUEEN'S BENCH DIVISION  
THE ADMINISTRATIVE COURT

Royal Courts of Justice  
Strand  
London WC2

Monday, 27th June 2005

B E F O R E:

**MR JUSTICE SULLIVAN**

-

**THE QUEEN ON THE APPLICATION OF ALLMAN**

**(CLAIMANT)**

-v-

**SECRETARY OF STATE FOR CONSTITUTIONAL AFFAIRS**

**(DEFENDANT)**

- - - - -

Computer-Aided Transcript of the Stenograph Notes of  
Smith Bernal Wordwave Limited  
190 Fleet Street London EC4A 2AG  
Tel No: 020 7404 1400 Fax No: 020 7831 8838  
(Official Shorthand Writers to the Court)

- - - - -

**DR MICHAEL ARNHEIM** (instructed by Chambers of Dr Michael Arnheim) appeared on behalf of the CLAIMANT

**MR TIM WARD** (instructed by Treasury Solicitor) appeared on behalf of the DEFENDANT

- - - - -

J U D G M E N T  
(As Approved by the Court)

- - - - -

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1. MR JUSTICE SULLIVAN: This is a renewed application for permission to apply for Judicial Review in respect of the Gender Recognition Act 2004. At the time when proceedings were instituted, the Act had not been brought into force and the claim sought, amongst other things, a prohibiting order to stop the implementation of the Act. As from 4th April 2005, the Act has been brought into force and so the application is now for a declaration of incompatibility pursuant to Section 4 of the Human Rights Act 1998.
2. It is contended that those provisions of the Act, principally Section 10 in conjunction with Schedule 3, which enable transsexuals to obtain a new birth certificate in their acquired gender, is incompatible with the claimant's rights under Articles 8, 9 and 10 of the Convention.
3. In refusing permission on the papers, Richards J observed:

"The claim is unarguable. It cannot be unlawful or unreasonable for the Secretary of State to bring into force an Act of Parliament which was passed to give effect to a judgment of the Strasbourg court. Moreover, for reasons given in the Secretary of State's summary grounds for contesting the claim, the Act does not give rise to any arguable breach of the claimant's Convention rights. Either there is no interference of such rights or any interference is justified as a proportionate means for protecting the rights of transsexual persons.

"I think it unnecessary to reach any decision on the defendant's further intention that the claimant is not even entitled to bring these proceedings since he is not in any relevant respect a victim."
4. In very brief summary, the claimant contends that the Act violates his rights under the Convention because he is a committed Christian male "who is in mortal fear of having a sexual relationship with someone who is biologically male by birth." The statement of facts relied upon in support of the claim says:

"The applicant's strict religious beliefs require him to be quite certain beforehand that the birth gender of anyone who he marries or with whom he has a sexual relationship is female. The applicant's very strong personal aesthetic preference as touching his own private life also require him to know beforehand that the birth gender of anyone who he marries or with whom he enters into a sexual relationship is female."
5. It is contended in Dr Arnheim's skeleton argument on behalf of the claimant that:

"Falsifying transsexuals' birth certificates in the way the Act does deprives heterosexuals of the right to rely on a public document to verify the true birth gender of a prospective sexual or marriage partner."
6. In my judgment it is unnecessary to enter into a consideration of issues of proportionality or indeed of any wider question than the simple one: can it be said that

there is any breach of the claimant's rights under Articles 8, 9, and 10? In my judgment, on any common sense basis, there is no arguable infringement of the claimant's rights. Article 8 deals with respect for the claimant's private and family life; Article 9 with his right to freedom of thought, conscience and religion; and Article 10 with his right to freedom of expression. It cannot sensibly be said that the Act infringes his rights under any of those articles. He is perfectly free to marry whomsoever he chooses, to pursue whatsoever religious belief he chooses and indeed to express whatever views he wishes to express about the rightness or wrongness of the Gender Recognition Act and the position of transsexuals in general.

7. The proposition underlying this claim, that the claimant might in some way be deceived into marrying someone whose birth gender was not female by what he would regard as a false birth certificate is, in my judgment, so farfetched that he is not within any measurable distance of being a victim for Convention purposes. The defendant's acknowledgment of service points out that the danger against which the claimant seeks to guard is a highly remote one. It cannot sensibly be said to be a real and immediate danger, and the court has made it plain in Klass v Germany [1978] 2 EHRR 214, paragraph 33, that individuals are not entitled to pursue:

"... a kind of actio popularis for the interpretation of the Convention; it does not permit individuals to complain against a law in abstracto simply because they feel it contravenes the Convention. In principle, it does not suffice for an individual applicant to claim that the mere existence of a law violates his rights under the Convention; it is necessary that the law should have been applied to his detriment."

Although Dr Arnheim referred to the decisions of Norris and Sutherland, in both of those cases homosexuals were subject to the criminal law of the land, in the one case the Republic of Ireland, and in the other case the United Kingdom. It is readily understandable, therefore, that even though they had not actually been prosecuted and even if, in the case of Norris, the police had adopted a sympathetic attitude, they could fairly describe themselves as victims. However, the proposition that the claimant might be misled by a birth certificate into marrying someone who was not female by birth is fairly described as remote in the extreme. A measure of common sense might perhaps be usefully applied when considering the extent to which those wishing to marry rely upon the birth certificates of their partners, as opposed to other means of finding out information about them, including questioning them, their family and their friends. This is of course on the assumption that, as a deeply religious Christian, the claimant would not wish to engage in any sort of sexual relations before marriage. Were he to do so, of course, one might have thought that any deception would be readily revealed. In truth, this claim is no more than a vehicle for the claimant to express his disapproval of the rights conferred on transsexuals by the Gender Recognition Act. The claimant is perfectly entitled to hold those views, but what he is not entitled to do is to contend that, in any real sense, either he or anyone else, will be misled by the birth certificates that can be issued under this act. With due respect to the claimant's views, the underlying proposition - that heterosexuals would be deprived of the right to rely on a public document to verify the true birth gender of a prospective marriage partner - is, in the real world, simply fanciful.

8. For these reasons, the claim does not get over the first hurdle and it is unnecessary to consider questions of proportionality and all the other matters raised in the defendant's acknowledgment of service and skeleton argument. This renewed application must be dismissed.
9. MR WARD: My Lord, I would ask for the costs of the Secretary of State in preparing the acknowledgment of service.
10. MR JUSTICE SULLIVAN: What are those costs?
11. MR WARD: £1,444.09. Summary assessment was served last week.
12. MR JUSTICE SULLIVAN: Do you have anything to say about that, Dr Arnheim?
13. DR ARNHEIM: No, my Lord, but may I ask for permission to appeal?
14. MR JUSTICE SULLIVAN: You may indeed, but I refuse you permission to appeal. I do not consider that the case is arguable. The renewed application is dismissed, the costs are summary assessed, so the claimant is to pay the Secretary of State's costs of preparing the acknowledgment of service of today's hearing. Those costs are summary assessed in the sum of £1,444.09.

See Explanatory Note

File-number \_\_\_\_\_

EUROPEAN COURT OF HUMAN RIGHTS

Council of Europe  
Strasbourg, France

APPLICATION

Under Article 34 of the European Convention on Human Rights  
And Rules 45 and 47 of the Rules of Court

**IMPORTANT:** This application is a formal legal document and may affect your rights and obligations.

**I. THE PARTIES**

**A. THE APPLICANT**

(Fill in the following details of the applicant and the representative, if any)

- 1. Surname.....ALLMAN..... 2. First name(s) John William  
Sex: male/~~female~~
- 3. Nationality...BRITISH..... 4. Occupation Software Developer
- 5. Date and place of birth 7 May 1953, Northampton, England
- 6. Permanent address 98 High Street, Knaresborough, N Yorks. HG5 0HN. United Kingdom
- 7. Tel. No. +44 1423 797693 (home landline) +44 7930 519793 (cellphone)
- 8. Present address (if different from 6.) Not applicable
- 9. Name of representative\* To be instructed later
- 10. Occupation of representative
- 11. Address of representative
- 12. Tel. No..... Fax No.

**B. THE HIGH CONTRACTING PARTY**

(Fill in the name of the State(s) against which the application is directed)

- 13. The United Kingdom of Great Britain and Northern Ireland

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1

If the applicant appoints a representative, attach a form of authority signed by the applicant and his or her representative.

## II. STATEMENT OF THE FACTS

(See Part II of the Explanatory Note)

14.

1. The response of the British government to the judgment delivered by **The European Court of Human Rights** (EctHR) in the case of **Goodwin -v- United Kingdom** was to pass **The Gender Recognition Act 2004** ("the UK Act"). The UK Act received Royal Assent on 1 July 2004.
2. It is not disputed that *some* sort of legislation was needed in response to the Goodwin judgment, in *every* jurisdiction bound together in treaty by the convention. It is merely defects in the particular UK Act passed upon which this application is founded.
3. Unlike legislation introduced by other parties to the convention, most notably France, the UK Act goes considerably beyond what was needed merely to right the wrongs justly identified in the Goodwin judgment. It created, as avoidable side effects of the drafting adopted, infringements of the applicant's *own* convention rights, as explained below. These are British human rights infringements which the far more sensible *French* legislative response to the Goodwin judgment happily managed to *avoid*.
4. By law, throughout the UK, one male and one female birth certificate are ordinarily required to be produced, before a marriage can be solemnised.
5. Unlike the more measured French legislation used to address the Goodwin judgment, the UK Act *failed* to provide for the lawful production of *annotated* birth certificates needed for the purposes of enabling marriage. An annotated birth certificate for present purposes is defined as one which shows both the true biological birth gender of the party concerned, and (in the cases of a transgendered party) the "acquired" gender, generally the opposite of his or her birth gender. Despite vigorous attempts to rectify this flaw during Parliamentary debate during the passage of the UK Act, the UK Act, as finally passed, provided only for *falsified* birth certificates, even in the case of birth certificates destined to be used for the purposes of enabling marriages to be solemnised. For present purposes, "falsified" birth certificates are here defined as birth certificates which show, as though it was the party's birth gender, only the *acquired* gender of any transgendered party to a proposed marriage, which acquired gender is usually the *opposite* of that party's original birth gender.
6. Many British citizens, including the applicant, are perfectly willing to accept a transgendered person's true gender as being his or her acquired gender for *most* legal purposes. But many who are (hereinafter implicitly defined) "determinedly heterosexual" people, including members several different and quite large cultural

minorities, are people who find themselves simply unable to accept a transgendered person's true gender as his or her acquired gender *for certain limited purposes*.

7. The limited purposes for which determinedly heterosexual people (like the applicant) find themselves unable to accept a transgendered person's acquired gender as being his or her true gender are as follows.
  - Purposes that touch upon the determinedly heterosexual person's express convention right for respect of his private and family life
  - Purposes that touch upon the determinedly heterosexual person's express convention right to marry
  - Purposes that touch upon the determinedly heterosexual person's express convention right to found a family
  - Purposes that touch upon the determinedly heterosexual person's convention right to freedom of thought
  - Purposes that touch upon the determinedly heterosexual person's express convention right to freedom of religion
  
8. Some of the minorities whose members are typically determinedly heterosexual include:
  - Followers of Orthodox Judaism
  - Followers of Reformed Judaism
  - Followers of Roman Catholicism
  - Followers of Eastern Orthodox Christianity
  - Followers of Christianity that is variously described as "protestant", "reformed", "evangelical" and/or "pentecostal"
  - Followers of most variants of the worldwide faith of Islam
  - Heterosexually-oriented people who dissent from any pseudoscientific or politically correct notion that there exists a "mental illness" called "gender dysphoria", for which the most appropriate medical treatment is often so-called "gender reassignment surgery"
  - Heterosexually-oriented people who dissent from any pseudoscientific or politically correct notion that there exists a "mental illness" called "gender dysphoria", for which an appropriate medical treatment can *possibly* be a merely *bureaucratic* procedure that reassigns gender (on paper) for all legal purposes (including those listed in Paragraph 7 above), *absent any gender reassignment surgery whatsoever*
  - Those sceptical that either bureaucracy or surgery can *really* change the true gender of people with the mental illness of gender dysphoria in a sense adequate for the sceptics becoming (in effect) obliged to recognise such purported gender change *even for the expressly convention-protected purposes listed in Paragraph 7 above*.
  
9. The applicant wanted to testify under oath in a relevant UK court that he was a member of several of the minorities mentioned in Paragraph 8 above. He was denied

this opportunity in the UK, because leave to apply for judicial review on grounds founded upon The Human Rights Act 1998 was refused. Any right to appeal against that refusal of leave to apply for judicial review was also expressly refused, at the same hearing, thus exhausting the applicant's access domestic remedies.

10. The applicant is prevented almost completely by the UK Act from expressing his heterosexuality in a manner consistent with his beliefs. His beliefs are common to several quite large cultural minorities, including several separate minorities to *all* of which the applicant belongs himself. In particular, the applicant cannot even safely express his heterosexuality within newly contracted wedlock to a British subject. This infringement arises solely because of the provisions of the UK Act. That is because Parliament, in passing that Act, elected to provide only for the issue of *falsified* birth certificates. This measure cannot be considered proportionate, or, in the alternative, the applicant is entitled to argue that it is *disproportionate*. The good example set by France and others demonstrates amply that legislation that permitted the production merely of *annotated* birth certificates was perfectly capable of meeting completely the requirements that the Goodwin judgment imposed upon convention signatory states. The judgment delivered in the UK denied the applicant a hearing of the substantive issues, or a right of appeal against this refusal of a hearing, both being contrary to Article 13 of the convention. The wording of the judgment delivered in the UK actually contains passages which (it will be argued) amount to nothing less than an attempt on the part of the learned judge to *mock* the applicant's strongly held, and *convention-protected*, beliefs.

### III. STATEMENT OF ALLEGED VIOLATION(S) OF THE CONVENTION AND/OR PROTOCOLS AND OF RELEVANT ARGUMENTS

(See Part III of the Explanatory Note)

15.

To all practical intents and purposes, the decision of Mr Justice Sullivan prevents the applicant from ever safely "dating" or marrying almost anybody. This is because the falsifying of *some* official documents ensures that the applicant cannot safely rely upon *any* such official documents. He cannot therefore "date" or marry anybody whom he might wish to "date" or to marry, were it not that he cannot rely upon an official document to verify that prospective partner's birth gender, *as his beliefs, conscience and religion require*.

This amounts to:

1. degrading treatment of the applicant, contrary to Article 3
2. a disproportionate infringement of the applicant's right to respect for his private and family life, contrary to Article 8
3. an infringement of the applicant's right to freedom of thought, conscience and/or religion, contrary to Article 9, insofar as it seeks to impose upon the applicant the abandonment of his beliefs if he is unwilling to accept celibacy
4. an infringement the applicant's right to marry, contrary to Article 12
5. an infringement the right to found a family, contrary to Article 12
6. discrimination against the applicant on grounds of religion, political or other opinion, contrary to Article 14

Moreover, the commonplace British practice of denying permission to apply for judicial review, and leave to appeal therefrom, amounts to an infringement of the applicant's Article 13 convention rights. In the instant case, the learned judge, during the hearing that exhausted the applicant's domestic access to remedies, heard *no testimony whatsoever*, and admitted, in one passage of his judgment, having made an "assumption" about the applicant's actual religious beliefs that actually hearing his testimony would have controverted.

#### **IV. STATEMENT RELATIVE TO ARTICLES 35 § 1 OF THE CONVENTION**

(See Part IV of the Explanatory Note. If necessary, give the details mentioned below under points 16 to 18 on a separate sheet for each separate complaint)

16. Final decision (date, court or authority and nature of decision)

Monday 27 June 2005, The Administrative Court, London

Case number CO/746/2005

Before Mr Justice Sullivan

The Queen on the application of Allman -v- Secretary of State for Constitutional Affairs

Permission refused to apply for judicial review. Permission refused to appeal against this decision. Costs awarded against the applicant.

17. Other decisions (list in chronological order, giving date, court or authority and nature of decisions for each of them)

None.

18. Is there or was there any other appeal or other remedy available to you which you have not used? If so, explain why you have not used it.

No.

## **V. STATEMENT OF THE OBJECT OF THE APPLICATION**

(See Part V of the Explanatory Note)

19.

Declaration(s) that the applicant's convention human rights are infringed, as contended when the case comes to trial in the European Court of Human Rights.

A declaration that the United Kingdom is in breach of its convention obligations.

Financial compensation commensurate with the costs order made against the applicant in the Administrative Court and the cost and inconvenience of incurred and suffered by the applicant up to the date of the European Court of Human Rights judgment.

Just satisfaction.

Such other remedies as the European Court of Human of Rights sees fit to grant.

## **VI. STATEMENT CONCERNING OTHER INTERNATIONAL PROCEEDINGS**

(See Part VI of the Explanatory Note)

20. Have you submitted the above complaints to any other procedure of international investigation or settlement? If so, give full details.

No.

**VII. LIST OF DOCUMENTS**

**(NO ORIGINAL DOCUMENTS,  
ONLY COPIES,  
DO NOT STAPLE, TAPE OR BIND DOCUMENTS)**

(See Part VII of the Explanatory Note. Include copies of all decisions referred to in Parts IV and VI above. If you do not have copies, you should obtain them. If you cannot obtain them, explain why not. No documents will be returned to you.)

21. a) The judgment delivered by Mr Justice Sullivan on 27 June 2005

## VIII. DECLARATION AND SIGNATURE

(See part VIII of the Explanatory Note)

I hereby declare that, to the best of my knowledge and belief, the information I have given in the present application form is correct.

Place Knaresborough

Date 19 December 2005

John William Allman

(Signature of the applicant or of the representative)