

23 April 2010

SUMMARY OF JUDGMENT OF THE ADMINISTRATIVE COURT

**THE QUEEN
On the Application of SHARON SHOESMITH**

- v -

(1) OFSTED

(2) SECRETARY OF STATE FOR CHILDREN SCHOOLS AND FAMILIES

(3) LONDON BOROUGH OF HARINGEY

This summary summarises the judgment handed down in this case. It is not designed to be comprehensive and it forms no part of the judgment which should be read in full for a complete understanding of the reasons for the decision.

References below in square brackets are to paragraph numbers in the judgment

The general conclusions appear in paragraphs 57-60, the specific conclusions about each defendant appear as follows:

OFSTED/SECRETARY OF STATE 30-31

OFSTED 32-39

SECRETARY OF STATE 40-48

Introduction

1. In a judgment handed down today in the High Court of Justice, Queen's Bench Division, Administrative Court, Mr Justice Foskett gave judgment in the applications for judicial review made by the Claimant against Ofsted ('Office for Standards in Education, Children's Services and Skills'), the Secretary of State for Children Schools and Families and the London Borough of Haringey.
2. The full judgment (which is 176 pages long) will be available immediately following the handing down of the judgment on the following website -

<http://www.judiciary.gov.uk>

and shortly after the handing down of the judgment on -

<http://www.bailii.org>

<http://www.casetrack.com> (for those who subscribe to it)

The background

3. The immediate background to the case was the tragic death of Peter Connelly ('Baby P') on 3 August 2007. His mother, Tracey Connelly, her boyfriend, Steven Barker and Steven Barker's brother, Jason Owen, were each convicted in due course of the offence of causing or allowing his death contrary to section 5 of the Domestic Violence, Crime and Victims Act 2004 and each is now serving the custodial sentences imposed, in Barker's case for another offence in addition. The verdicts in the cases of Barker and Owen, who contested the allegations, were returned on 11 November 2008.

4. For about 8 months prior to his death Peter had been on the child protection register of the London Borough of Haringey ('Haringey'). The family had been seen by social workers, health professionals and the police on many occasions during that period. A broken spinal cord that was inflicted on him some 3-4 days before he died was not identified by a locum consultant paediatrician who saw him on 1 August.
5. During the period covering Haringey's involvement with Peter the Claimant, Ms Sharon Shoemith, was the Director of Children and Young People's Services (the 'DCS') within the Borough. She became DCS in April 2005 following her involvement in Haringey from 2001 in relation to educational provision within the Borough. She was appointed Director of Education for Haringey in April 2003 and continued in that role until she was appointed DCS. The evidence before the Judge was that she had personally made a very significant contribution to the improvement in the educational services in Haringey and was very highly thought of within the Borough.
6. On 12 November 2008, following the verdicts in the criminal trial the previous day, the Secretary of State for Children, Schools and Families asked Ofsted (together with together with the Healthcare Commission and Her Majesty's Chief Inspector of Constabulary) to produce an urgent report into the child safeguarding arrangements within Haringey.
7. The inspection took place during the week beginning 17 November 2008 and the report was prepared with a view to its delivery to the Secretary of State on 1 December. That was achieved and the Secretary of State saw a final draft of the report during the evening of 30 November.
8. In consequence of the report the Secretary of State issued a direction on 1 December under section 497A(4B) of the Education 1996 (which applies to a Children's Services Authority such as Haringey) appointing two other named individuals to be DCS and Deputy DCS with immediate effect. The consequence was that the positions of the Claimant (for which she was employed pursuant to a contract of employment by Haringey) and her Deputy were henceforth to be taken by those named individuals. The person identified to act as DCS was not prepared to serve in that position beyond 31 December 2008 and on 19 December the Secretary of State issued a further direction confirming that another named individual, Mr Peter Lewis, should be appointed DCS.
9. At an internal hearing within Haringey on 8 December 2008 the decision was taken by a Panel of councillors that she should be

dismissed summarily with no compensation. The Claimant followed the internal procedures of Haringey and appealed against that decision to another Panel of councillors. That hearing took place on 7, 8 and 12 January 2009. The decision of that Panel confirmed the earlier decision.

10. Every aspect of what occurred then and since has attracted considerable media attention.

The nature of these proceedings

11. By means of these applications for judicial review the Claimant has sought to challenge the lawfulness of the Ofsted report, the directions of the Secretary of State and the decisions made by Haringey. In a nutshell, she alleged that each process was flawed by breaches of the principles of natural justice and that the procedures adopted in each process were unfair. In relation to the Secretary of State's decision, she has alleged that it was also flawed by taking into account immaterial considerations – for example, a petition presented to him by a national newspaper.
12. It is well-established law that the decision of a public body (as each of the defendants in this case is for the purposes of the law) may be set aside or declared unlawful if it can be shown that, if the rules of natural justice apply to the decision-making process, those rules have been breached. Equally, where a decision has been taken that has been influenced by a wholly immaterial factor, it is liable to be declared unlawful. In some circumstances, where the court is satisfied that the outcome of the decision-making process would have been the same irrespective of the breaches of natural justice, it may decline to grant any relief.
13. Because of the passage of time since the material events and the recognition by the Claimant that, even if her applications were shown to be well-founded, it would be practically impossible for her to be reinstated as DCS, the relief sought was effectively a declaration that each of the processes was flawed by legally actionable unfairness.
14. Given the high profile nature of the case and the publicity that has been given to certain events that have occurred during the case (particularly the late disclosure of documents by Ofsted), the Judge emphasises in the judgment (a) what the case is not about and (b) the way in which the evidence before him has been judged.

What the case is **not about**

15. The case is not (a) an inquiry into child protection arrangements across the country generally, (b) an inquiry into child protection arrangements in Haringey at the time of Peter's death or at any other time, (c) an inquiry into the reasons and responsibilities for Peter's death or (d) a claim for compensation by the Claimant.
16. As to (d), it was made clear on the Claimant's behalf that whilst success in the claim may assist a claim for compensation, it was not the main point since the proceedings afforded her an opportunity to demonstrate that any conclusions made against her – including the statement made publicly by the Secretary of State that she was “not fit for office” – were not made fairly.
17. The Judge also makes clear that the focus of the proceedings has been principally upon the fairness of the decision-making processes, not upon the merits of any decisions made following those processes [30, 391, 392, 394, 396, 443]. That is not the function of the court in this kind of case. It follows that it has not been for him to form any view on, for example, whether the judgments of the Ofsted inspectors were justified or not [30], whether the final form of the report had been ‘beefed up’ from its earlier drafts [31, 439], whether the Secretary of State was right to give the directions he did [538] or whether Haringey was right to dismiss the Claimant, with or without compensation. The focus is entirely on the fairness of the process by which these decisions were reached.

The evidence

18. He also emphasizes that, consistent with the usual approach in judicial review cases, he has not heard oral evidence from any of the witnesses whose witness statements were put before him. Consequently, where there are differences of recollection and/or plain disputes of fact as between witnesses, he has not had the advantage of hearing directly from the witnesses and of seeing them cross-examined on these differences. He has had to arrive at certain conclusions of fact, but those conclusions are based upon an appraisal of the witness statements and, most particularly, the contemporaneous documents. They have not arisen from an evaluation of a witness in the witness box.
19. Because of the late filing of certain evidence and the problems concerning disclosure that emerged during the case, the Judge explains that he has taken a more liberal approach to the evaluation of the evidence than he would ordinarily take in a judicial review claim [45]. There are, however, limits to that and he says that “any finding that someone has been deliberately dishonest is well beyond those limits.” [41, 268, 269]

The nature of the case presented by the Claimant and the response of the Defendants

Ofsted and the Secretary of State

20. Overarching the more precise allegations of unfairness (see paragraphs 22-29 below), there has been the suggestion that there was political interference with the Ofsted inspection and that as the result of that interference the final version of the report was deliberately strengthened to put the Claimant in a bad light.
21. These suggestions have been strongly denied on behalf of Ofsted and the Secretary of State.

Ofsted

22. As against Ofsted, the essence of the Claimant's case was that, unlike the arrangements that obtain when a full Joint Area Review ('JAR') is carried out by Ofsted and other inspectorates into a local authority's child safeguarding arrangements, in the inspection that took place in Haringey there was no proper discussion between her and the inspectors about any emerging concerns that reflected upon her position as DCS and no feedback, each of which, had they occurred, could have enabled her to put her side of the case. It was her case that she was given no fair opportunity to comment on the concerns that appeared in the report placed before the Secretary of State, a report which she did not see until after the Secretary of State had issued the direction on 1 December.
23. Ofsted's response was that since it was reporting into the working of child safeguarding arrangements generally in Haringey (including the health care professionals and the police), it was not reporting on matters of personal responsibility for the system or effectively conducting a disciplinary inquiry into any individual's position within the system. It was thus not obliged to formulate potential specific criticisms there might be against the Claimant and to invite her comment. The highest, it was said, the duty of Ofsted to be "fair" reached was to raise with the Claimant the gist of the matters that drove the main findings in the report so that she had an opportunity to comment. It was said that, as a matter of fact, that happened.

The Secretary of State

24. As against the Secretary of State, the Claimant's case based upon natural justice was that she should have been afforded "some

opportunity” to state her position before he made his adverse decision affecting her position as DCS based upon a report she had never seen. As indicated in paragraph 11 above, it is also argued that his decision was flawed by taking into account an immaterial consideration, namely, a petition presented to him by a national newspaper.

25. His case was that what “fairness” requires in any situation depends on the circumstances and the statutory context concerned. Here the statutory context was the structure of child safeguarding arrangements. The particular context was that of the safeguarding arrangements in Haringey and more generally across the UK because of the intense public interest in the issue at the time. Commissioning a report from those normally charged with reporting on such matters was a “fair” thing to do and during the course of the inspection it was anticipated that the Claimant (and others) would have the opportunity to have a meaningful input in addressing the substance of any areas of concern arising during the inspection. It was argued that this is what happened.
26. It was also argued on the Secretary of State’s behalf that, even if the rules of natural justice had been breached, it would have made no difference to the decision.
27. The Secretary of State denied being influenced by the petition.

Haringey

28. The Claimant’s case against Haringey was that a decision was made as soon as (if not before) the Secretary of State’s decision on 1 December was made, and as soon as Haringey’s representatives had seen the Ofsted report, that she had to go and go quickly without compensation. This, it is argued, reflected what the Secretary of State himself suggested, along with national newspapers and others, at the time. It is argued that the internal disciplinary procedures were a “charade” or, at least, gave the appearance of a pre-determined outcome.
29. Haringey denied these suggestions, but argued that any complaint the Claimant had about the fairness of her dismissal should be heard by an Employment Tribunal (where she has in any event commenced proceedings) because she had no right to bring judicial review proceedings since there was no “public” element to her employment.

The judgment – the essential conclusions

Political interference with Ofsted inspection and report

30. The Judge has concluded that the evidence as deployed before him does not sustain the case advanced based upon political interference with the Ofsted inspection or the writing of the report [175, 419-421, 543]. The relevant part of paragraph 543 reads as follows:

If there had been a sustainable case that the Ofsted report had been 'made to order' at the instance of, or on behalf of, the Secretary of State and that the results of the inspection were thus either a foregone conclusion or had been manipulated to give grounds for his decision, the outcome of this case would have been different. Suggestions of such dark processes have been made during the proceedings. Ofsted's inept handling of its obligation of candour during the case may at the time it was revealed have appeared to provide a key to an otherwise locked door. When the further disclosure took place, the suggestions were renewed with greater vigour. However, on the evidence as deployed before me, those suggestions could not be translated into anything of greater substance whatever suspicions, on one interpretation of the material, might have been engendered.

Party politics

31. The Judge has also rejected as “too simplistic” the suggestion that the initial decision of the Secretary of State to request the Ofsted inspection was driven by “party politics” [141].

OFSTED

Ofsted inspection not “targeted” at the Claimant

32. The Judge has rejected the suggestion that the Ofsted inspection was targeted at the Claimant personally [414]. The relevant part of that paragraph reads as follows:

Unless there is something in the background that has not been revealed in these proceedings, I do not think that there can be any doubt that, in the execution of the

fieldwork part of the process, the Ofsted team was not setting out to “target” the Claimant personally in its analysis of what it saw. Indeed I am not sure that, on a true analysis, this is what the Claimant says. Her case, articulated through Mr Maurici’s written submissions in particular, is that the way in which the findings of the inspection were written up in the final form of the report reflected the implementation of an agenda designed to put her in the worst possible light. I will return to that suggestion (to the extent that it is relevant to the matters before me) later, but it would have been contrary to the way in which Ofsted inspections were carried out for any inspection to focus on the role that specific individuals played.

33. The Judge does return to the way in which the final version of the report was arrived at various places in the judgment [424-478], but only in the context of endeavouring to resolve the issue of whether or not the gist of any concerns on the part of the inspection team were communicated to and discussed with the Claimant and other personnel at Haringey. He repeats on several occasions that suggestions of ‘beefing up’ or unfairly strengthening the conclusions are outside his remit on a judicial review application.

Ofsted’s obligation of “fairness”

34. The Judge accepts Ofsted’s case that the inspection was an inspection into a department and a system of safeguarding in a particular community and is not to be equated with some kind of disciplinary inquiry. He concludes that the obligation of “fairness” is derived from the duty to carry out a *bona fide* and open-minded inspection [483]. The relevant part of that paragraph reads as follows:

This was not ... a disciplinary investigation by Ofsted even though, as things turned out, the Secretary of State and Haringey used the findings for removing the Claimant from her position and then dismissing her from her employment respectively. In my judgment, Ofsted’s duty of fairness was simply derived from a duty to carry out a *bona fide* and open-minded inspection into what they found and to report accordingly. Discussing matters that arose with those “on the ground” in the local authority would have been the only way to form a worthwhile view of what was happening. Concealing emerging concerns would have been unlikely to produce a balanced and fair report. Discussing those concerns with those who could illuminate the position from the local authority’s perspective was plainly important and would obviously have alerted those with whom the issues

were raised to possible adverse findings and conclusions. It seems to me that it was at that time that the opportunity to influence the outcome of the inspection came to arise.

35. Having considered the evidence, he has concluded that Ofsted complied with this obligation (in the very difficult circumstances in which this inspection took place: see, e.g., paragraph **487** of the judgment) except in respect of the important and sensitive finding that there was a failure on the part of Haringey "to ensure full compliance with some requirements of the Climbié Inquiry recommendations". The evidence demonstrates [**424-441**] that the inspectors were uncertain whether to include reference to the Climbié Inquiry recommendations and that has led the Judge to conclude that the issue was not given sufficient prominence during the short period of the inspection for the Claimant and others at Haringey to have had a fair opportunity to comment on this issue. In this connection there is also evidence that members of the Council (accompanied by the Chief Executive and those asked to attend) who saw the final draft version of the Ofsted report on 1 December 2008 asked the Ofsted representatives who had met the Secretary of State to change the final draft in a way that shifted the responsibility for this alleged failure from a combined failure on the part of members of the Council and officers to an entirely managerial failure [**297**].
36. He concludes that the way this change was made to the report was unsatisfactory [**298, 438**] and unfair to those responsible for management at Haringey (which would include the Claimant, her Deputy and others) who were given no opportunity to comment on the proposed change. It had no impact on the Secretary of State's decision [**297-299**], but may be of relevance to Haringey's position in relation to dealing fairly with the Claimant.
37. His conclusions on the issue of the opportunity given during the inspection to comment on the gist of the other main findings is dealt with at [**423-478**].
38. Whilst Ofsted complied with the obligation of fairness as defined, the Judge's assessment of the evidence from the witnesses from Ofsted, Haringey and the Claimant herself shows that the circumstances in which the inspection took place [**158, 160, 178, 189, 205, 224, 246, 257, 280, 310, 328, 350, 488, 520**] were not conducive to any individual employed at Haringey truly having "a full, fair and considered opportunity to say something about their personal involvement in the system that operated within Haringey" [**484 - also 387**]. This is also something that may be of relevance to the way Haringey dealt with the Claimant.

Ofsted's discharge of the duty of candour

39. The Judge deals with what he has described as the "inept" handling of the obligation of candour by Ofsted in these proceedings (see paragraph 30 above) and the issue arising from the instruction to delete e-mails in Appendix 2 to the judgment. These issues have been a matter of considerable concern to him and he considers that there are questions that remain outstanding that he intends to raise with The Treasury Solicitor personally [**Appendix 2, paragraph 41**]. However, for the reasons he gives, he considers that Ofsted has now revealed sufficient material for it to be possible to reach a considered view on the merits of the judicial review claim.

SECRETARY OF STATE

The Secretary of State's directions on 1 December 2008

40. The Judge accepts that, in the particular context (the statutory context and the factual context of the circumstances of this case) the right of an individual to be treated fairly had to assume a lower profile than the need to take a decision in the wider public interest of child safeguarding [375-377]. The relevant parts of the judgment are as follows:

In all these matters, it is a question of balancing the competing considerations, interests and rights. It is very difficult, if not impossible, to envisage any circumstances in which the right of an individual to be treated fairly would take precedence over, or should delay, an urgent decision concerning the interests of a large number of vulnerable children who may be exposed to the risk of significant injury or death, particularly if the decision is perceived to affect not just children in a particular locality, but nationwide However, if in this situation an individual is deprived of some of the ordinary notions of fairness in the process that leads to his or her removal from a particular position, it should not necessarily mean that the individual is, or should be, deprived of his or her reputation or his or her other contractual or statutory rights. It is always possible for the decision-maker to make it clear that the decision had to be taken in the wider public interest and that it did not necessarily reflect anything adverse about the individual's competence or professionalism....

...

Dealing with the child protection services in Haringey was perceived by the Secretary of State to be a major and urgent concern, not merely from the point of view of child protection in Haringey itself, but also in a nationwide context given the overwhelming public concern arising from the outcome of 'the Baby P case'. That judgment was pre-eminently a matter for the Secretary of State and is not, strictly speaking, for the court to evaluate. I would, however, merely observe that it would be difficult to see how anyone could argue to the contrary. Looking at the more local context of Haringey itself, there were, as I have observed previously, about 200 other children on the child protection register at the time and the SCR about Peter's

case, produced under the LSCB of which the Claimant was Chair, revealed some important issues that needed addressing in any event. The need to address the way the services in Haringey were organised was going to arise irrespective of any media campaign or public outcry after the verdicts in Peter's case. That the intense public reaction may have hastened the process somewhat is, in one sense, neither here nor there: the issue had to be addressed and addressed quickly. If another death occurred whilst prolonged investigations took place, anyone who was responsible for prolonging the investigatory process would be blamed (or would blame themselves) for contributing to another tragedy. It follows that there was nothing irrational about a truncated investigation and, logically, nothing wrong about being less concerned about the principle of fairness to individuals than in other cases.

41. The Judge concludes [537-538], however, that the Secretary of State had before him a report from Ofsted that contained the overall conclusion "that there were significant weakness in safeguarding and child protection arrangements in Haringey" and "that the arrangements for the leadership and management of safeguarding by the local authority and partner agencies in Haringey are inadequate" ("partner agencies" for this purpose being health and the police) and on that basis there was material upon which he could conclude that he could, if he wished, act in pursuance of section 497A [286, 301]. It was a matter for him as to what he did to deal with the situation thus presented [538].

The petition

42. Whilst commenting that writing an article in a national newspaper that has been running a campaign for a particular result "and being photographed with someone conveying a petition demanding that certain actions be taken shortly before considering what action to take does run the risk of a court being forced to draw the inference that a material consideration in taking the decision a few days later was the petition and the influence of the particular newspaper - or that it reflected a pre-determination to act in a particular way" [404-405] , the Judge concludes as follows:

I do not interpret [the Secretary of State's] answer [to a question posed by Mr George Pascoe-Watson at the press conference], taken as a whole, to support the proposition that it was because of *The Sun's* petition that he took the action that he did. There can be no doubt from the press material put before me that virtually every newspaper in

the country was carrying the story and its implications. Doubtless it was extensively reported and the subject of comment on television, radio and also the Internet. Ms Pugh refers to e-mails and letters received by No 10 Downing Street and the Department and the way the matter was raised in Parliament on a good number of occasions, including calls for a public inquiry. She refers also to a “lynch mob” attitude towards social workers in various places across the country, a problem that is highlighted in some of the press reports in the papers before me.

...

... I think it ... far too simplistic to say that he took the decision that he did on 1 December because of being presented with a petition from a national newspaper a few days earlier. No media outlet could claim a monopoly of coverage, influence or wisdom on the matters the Secretary of State had to consider at the time and against that background, and the wider background referred to by Ms Pugh, it is quite impossible to draw the inference that [he did].

Matters going beyond the direction of 1 December

43. Whilst overall the Judge accepts that, to the extent that a process that was fair to the Claimant (and others) was required, the necessary standard according to law was achieved by Ofsted and by the Secretary of State, he concludes that certain things that potentially impacted on the Claimant were stated publicly in circumstances that gave her no proper opportunity to refute them and were thus “unfair”. On the evidence available to him, the Judge has concluded that these matters did not affect the validity of the Secretary of State’s decision, but he expresses concern that they were stated at the Press Conference at which the Secretary of State’s decision was announced. These matters are as follows:

“insufficient oversight of Deputy DCS”

44. The Secretary of State said this at the Press Conference [302]:

“In their summary judgement, the inspectors say that there [is] ... insufficient management oversight of the Assistant Director of Children’s Services by the Director of Children’s Services and Chief Executive.”

45. The Judge points out [303] that no such opinion appears in the 'Summary judgement' of the Ofsted report and draws the conclusion that the Secretary of State's observation was based on something said to him by the Chief Inspector and the Lead Inspector at a private meeting when the Ofsted report was presented to him formally that morning. The Judge observes that since the comment "went to [the] respective abilities and competence" of the Claimant and her Deputy and since neither "had a full and fair opportunity to refute it" it was unfair to have said it. Since the Ofsted report was not designed to deal with the situation of individuals, a comment such as this should have been avoided.

"not fit to hold ... office"

46. The Judge makes a similar observation about the suggestion made that the Claimant was "not fit to hold an office" [303, 308]. That goes to her personal professional ability and competence which was not something that had been the focus of the Ofsted inspection or report.

no compensation

47. The Judge expresses the view [406] that the Secretary of State would have been "better advised not to have been persuaded to express a view at the press conference about whether [the Claimant] should receive compensation from her employers [because it] could be seen as seeking to put pressure upon the authority which, as a public body, was obliged to consider properly, fairly and with due regard to its own legal powers what it should do in what was almost certainly a complex legal position". The Judge added this observation [539]:

His statutory role in relation to the Claimant and her Deputy ended when he made the directions he did on 1 December. If newspapers or other commentators wished to suggest what the outcome should have been, they were entitled to do so. But the Secretary of State should not have been seen to give support to those views

no arrangements for telling the Claimant of the decision

48. Whilst the matter does not go to the substantive merits of the case, the Judge expresses concern [317, 398] that no arrangements had been made to communicate to the Claimant either the gist of the Ofsted report or what the Secretary of State intended to direct before it was announced publicly.

HARINGEY

49. The Judge has decided that the appropriate venue for determining the issue of the fairness or otherwise of the Claimant's summary dismissal by Haringey is the Employment Tribunal.
50. He has arrived at this conclusion by a different process of reasoning from that argued for by Haringey (see paragraph 29 above). His conclusion is that there is a sufficient "public" element about the position of DCS within the meaning of the established legal authorities to permit an application for judicial review of a decision to dismiss to be made. However, judicial review is traditionally seen as a remedy of "last resort" and he has concluded that the Employment Tribunal is the place of "first resort" for a DCS such as the Claimant who had served in her position long enough (ie. over a year) to entitle her to bring a claim for unfair dismissal if she wishes to do so [511].
51. The advantage of the Employment Tribunal route is that [509] the "merits in the broadest sense ... can be reviewed, there are no significant costs risks associated with the proceedings and the tribunal is comprised of those with considerable experience of the employment law field."
52. Since this process of reasoning would lead to the dismissal of the Claimant's judicial review claim against Haringey, the Judge recognises that the Claimant may wish to appeal against this result either on its own or as part of an appeal against the other aspects of the decision. He has, therefore, given an indication of his view of the merits of the Claimant's case against Haringey if, contrary to his decision, judicial review should be seen as a remedy of "first resort" in this case.
53. He makes it clear [514-516] that the views he expresses are not in any way binding upon, nor should be seen as influencing, the Employment Tribunal if matters proceed in that forum. They are available for consideration should this case proceed further.
54. The Judge gives reasons for saying that process adopted by Haringey was flawed and liable to be declared unfair [517-531], but summarises his view in this way [531]:

The overall impression gained of Haringey's approach (perhaps understandable given all the external pressures) was that the sooner the Claimant was dismissed with no compensation, the better, and that everyone could "move on" once that had happened. However, simply because the

Ofsted report was in the terms it was, and the Secretary of State acted as he did and he, others and various national newspapers called for the Claimant's summary dismissal was no proper justification for taking such an approach and it created the appearance of an unfair process.

55. As has been emphasised, the Judge's approach to this issue has to be confined to the fairness of Haringey's procedures and has not addressed the merits of the case for and against summary dismissal. That would be a matter for the Employment Tribunal. One matter that has been raised is the role that the concept of "accountability" has in this context. Could the Claimant, as Head of the CYPD, have been dismissed summarily because she was "accountable" for the failings of the Department even if not personally at fault for the existence of those failings? This was one reason given for her dismissal [361] and reflects something said by the Secretary of State at the Press Conference on 1 December 2008 [384].

56. The Judge observes that this matter will be of interest and concern to anyone thinking of taking on the role of DCS – or who is in the role or an equivalent role in local government – and ventures the view that, whilst it is a familiar concept in political terms, it has difficulties in the employment law context [386].

Conclusion and general matters

57. The net effect of the Judge's judgment is that the Claimant's applications for judicial review fail, although her claim for unfair dismissal against Haringey may proceed in the Employment Tribunal if she decides to continue with those proceedings.
58. In relation to the dismissal of the applications against the decisions of the Secretary of State and the Ofsted report, he indicates that he has "reached those conclusions with a lurking sense of unease" for the two reasons he indicates [540-543], one of which relates to the way in which the legal relationship between central government and local government operates in this kind of situation. He recommends discussions between central government, local government organisations and representatives of those who are employed in positions that might be affected by a direction under section 497A in order to establish a protocol for dealing with this kind of situation if it arises in the future because he does not "think that any party will truly look back at how matters were handled in this case with complete satisfaction."
59. He draws attention to the unfortunate fact that the issues in the case have become obscured and, to some extent, devalued by the personalised way in which they have been discussed and represented in the public arena. Given the importance of an "informed and balanced public debate about how tragedies of the nature that occurred in relation to Peter can be avoided in the future" [24] that must be seen to be regrettable.
60. He will be extending the time for all parties for making any consequential applications to him. He encourages all parties to take time for mature reflection on the implications of the judgment and not to make any hasty decisions about what to do next.