APPROVED **[2023] IEHC 726**

THE HIGH COURT
JUDICIAL REVIEW

2022 749 JR

BETWEEN

EUAN BRADY

APPLICANT

AND

DIRECTOR OF PUBLIC PROSECUTIONS

RESPONDENT

JUDGMENT of Mr. Justice Garrett Simons delivered on 21 December 2023

INTRODUCTION

1. This judgment is delivered in respect of an application to restrain a criminal prosecution on the grounds of blameworthy prosecutorial delay. The Applicant in these judicial review proceedings stands accused of an offence of assault causing harm contrary to Section 3 of the Non-Fatal Offences against the Person Act 1997.

2. The alleged offence is said to have occurred on 25 February 2019. But for these judicial review proceedings, the criminal prosecution would have been heard on 12 September 2022, i.e. some three and a half years after the alleged offence.

NO REDACTION REQUIRED

KEY DATES

3. The key dates in the chronology are summarised in tabular form below:

25 February 2019	Date of alleged assault
	Each participant makes voluntary statement to An Garda Síochána ("*AGS*")
15 September 2019	AGS attend at Applicant's home
25 September 2019	Applicant declines to attend for a cautioned interview
30 January 2020	Formal statement taken from independent witness
30 May 2020	Applicant is arrested and interviewed under caution
10 August 2020	Applicant is charged and granted station bail
2 September 2020	District Court: Applicant remanded on bail
11 November 2020	District Court accepts jurisdiction for summary disposal
8 December 2020	Disclosure furnished to Applicant's solicitor
19 January 2021	Disclosure of copy of Applicant's statement of 25 February 2019
22 March 2021	DVD of interview furnished to Applicant's solicitor
1 November 2021	Hearing date: adjourned to allow defence to summons Garda Finnegan
10 January 2022	Hearing date: adjourned (Garda Cluskey had Covid-19)
25 July 2022	Hearing date: adjourned (Garda Cluskey had Covid-19 again)
	District Court refuses to dismiss on grounds of delay
5 September 2022	*Ex parte* application for leave to apply for judicial review
(12 September 2022)	(Peremptory hearing date: adjourned because of judicial review)
11 December 2023	Hearing of application for judicial review

CHRONOLOGY OF EVENTS

4. The criminal prosecution arises out of an alleged assault causing harm ("*the alleged assault*"). The alleged assault is said to have taken place on 25 February 2019. The alleged assault relates to an altercation between two drivers. It is apparent from the statements provided to An Garda Síochána that each driver, in effect, alleges that the other assaulted him. The alleged assault was observed by an independent witness. This

independent witness contacted An Garda Síochána by telephone to report the incident. In her formal statement of 30 January 2020, the independent witness describes the incident as a "*bad case of road rage*".

5. It seems that, on the evening of the alleged assault, each of the drivers attended at a different Garda Station and made a voluntary statement. The Applicant made his statement to a Garda Finnegan at Balbriggan Garda Station. The alleged victim of the assault made his statement at Swords Garda Station. The alleged victim asserts that the Applicant head-butted him and then struck him with a closed fist. The alleged victim asserts that the attack was unprovoked. It appears from the medical records which have been disclosed that the alleged victim was subsequently diagnosed with a broken nose said to be the likely result of blunt trauma to the face.

6. It is relevant to the subsequent events to record that a Garda Cluskey had been on duty at Swords Garda Station that evening. Although Garda Cluskey had not taken the statement from the alleged victim, she did have dealings with him. In particular, she observed him while he took photographs of the injuries said to have been received in the alleged assault. These photographs were then emailed to Garda Cluskey for the purposes of the investigation.

7. The initial steps in the investigation were hampered by the fact that the Applicant is not the registered owner of the vehicle which he had been driving on 25 February 2019. The registered owner is the Applicant's wife. It seems that the postal address at which the vehicle is registered is incomplete in that it refers only to a townland rather than a specific house. At all events, An Garda Síochána ultimately identified the Applicant as the person who may have been driving the vehicle. This was done by reference to the details of the insurance policy in respect of the vehicle: the Applicant is a named driver on the policy. Garda Cluskey attended at the Applicant's home on 15 September 2019. The Applicant

confirmed that he had been the driver of the vehicle on the relevant date. Thereafter, Garda Cluskey requested that the Applicant attend for a cautioned interview on 25 September 2019. The Applicant declined to do so in circumstances where An Garda Síochána had been unable to furnish him with a copy of the voluntary statement which he had given at Balbriggan Garda Station on 25 February 2019. A copy of this statement was not ultimately furnished to the Applicant until 19 January 2021.

8. An Garda Síochána made further efforts during the period April and May 2020 to have the Applicant attend for a cautioned interview. This coincided with the public health restrictions introduced in response to the Coronavirus pandemic. The Applicant, through his solicitor, objected on public health grounds to having to attend an interview. The Applicant's solicitor suggested that there was no urgency attaching to the investigation. See letter dated 13 May 2020 as follows:

> "It appears to me that your request violates government guidelines in relation to current pandemic.
>
> I do not see what urgency can possibly attach to this investigation given that the incident is over a year ago, and An Garda Síochána have previously received a statement from my client on this issue albeit that they appear to have misplaced it.
>
> That matter is being examined by GSOC.
>
> A final point which you should note is that upon being cautioned that he is not obliged to say anything my client proposes to accept the caution and do precisely that. In the circumstances the proposed interview in violation of the guidelines cannot be justified as it serves no purpose.
>
> In the event that you move to arrest our client this correspondence will be relied upon in an immediate Article 40 application to the High Court."

9. The Applicant was ultimately arrested, at his home, on 30 May 2020 and interviewed under caution. It is apparent from the notes of the interview that whereas the Applicant

answered the initial questions posed, he chose thereafter, having consulted with his solicitor by telephone, to exercise his right to silence.

10. The threat to make an application for *habeas corpus*, conveyed in the letter of 13 May 2020, was very sensibly not followed through on. There would have been no basis for such an application. An Garda Síochána were entitled, in all the circumstances of the case, to exercise their statutory power of arrest.

11. On 2 August 2020, Garda Cluskey received a direction pursuant to Section 8 of the An Garda Síochána Act 2005 that the Applicant was to be charged with an offence of assault causing harm contrary to Section 3 of the Non-Fatal Offences against the Person Act 1997. The Applicant was charged on 10 August 2020 and granted station bail.

12. The criminal proceedings were listed before the District Court on a number of occasions during the period September 2020 to July 2021. Disclosure was furnished on 8 December 2020 and 19 January 2021. The latter disclosure consisted of a copy of the voluntary statement which had been provided by the Applicant on the day of the alleged assault to Garda Finnegan at Balbriggan Garda Station. The Applicant had been seeking a copy of this statement since September 2019 and the delay in furnishing same to him had been the subject of a complaint to the Garda Síochána Complaints Ombudsman ("*GSOC*"). The complaint had been made on 20 May 2020. GSOC dismissed the complaint as inadmissible in circumstances where it had been made outside the twelve-month period prescribed, and there was not, in GSOC's opinion, good reason to extend time.

13. There were restrictions on sittings of the District Court during this period as part of the public health measures introduced in response to the Coronavirus pandemic. Priority was given to criminal trials which involved persons who were in custody and to those not involving civilian witnesses.

14. In July 2021, a trial date was fixed for 1 November 2021. In the event, however, the trial did not proceed on that date in the following circumstances. The Applicant's solicitor indicated that the defence wished for Garda Finnegan to give evidence at the trial. The trial had to be adjourned to allow the defence time to serve a witness summons upon Garda Finnegan.

15. The trial did not proceed on the new trial date of 10 January 2022 in circumstances where Garda Cluskey had contracted Covid-19. A new trial date was fixed for 25 July 2022 in circumstances where Garda Cluskey had been scheduled to be on maternity leave from February 2022.

16. The trial did not proceed on the new trial date of 25 July 2022 in circumstances where Garda Cluskey had, again, contracted Covid-19. The Applicant's solicitor applied to have the proceedings dismissed on the grounds of delay. The District Court judge refused this application but fixed a new trial date, on a peremptory basis, for 12 September 2022. (The trial date was overtaken by these judicial review proceedings).

17. The Applicant instituted these judicial review proceedings by way of an *ex parte* application for leave on 5 September 2022. The judicial review proceedings came on for hearing on 11 December 2023 and judgment was reserved until today's date.

LEGAL TEST

18. The approach to be taken to an application to dismiss summary criminal proceedings on the grounds of delay is correctly described as follows in Dunne, *Judicial Review of Criminal Proceedings* (Round Hall, 2nd ed, 2021) at §9–198:

> "The effect of *Devoy v. DPP* and *Cormack and Farrell v. DPP* is that when a court is asked to dismiss summary proceedings on the grounds of blameworthy prosecutorial delay, the court must first analyse the delay and to determine whether the lapse of time amounts to blameworthy prosecutorial delay. If so, the court must then apply the balancing test and consider whether the accused's right to an

> expeditious trial has been compromised to such a degree that the summary proceedings should be prohibited. This will involve balancing the public interest in the prosecution of the applicant against the extent to which blameworthy prosecutorial delay has interfered with the interests protected by the right to be tried with reasonable expedition."
>
> *Footnotes omitted

19. Counsel on behalf of the Applicant placed emphasis on the judgment of the High Court (O'Neill J.) in *Director of Public Prosecutions v. Arthurs* [2000] 2 I.L.R.M. 363. This judgment appears to suggest that a delay in excess of two years and three months in summary proceedings would, in and of itself, justify the dismissal of such proceedings for inordinate and excessive delay. This aspect of the judgment has been disapproved of by the Supreme Court in *Cormack v. Director of Public Prosecutions* [2008] IESC 63, [2009] 2 I.R. 208. Kearns J. held that there is no basis for applying a separate legal regime to summary prosecutions. See paragraphs 47 and 48 of the reported judgment as follows:

> "[…] A quite different view was taken by this court in *Devoy v. Director of Public Prosecutions* [2008] IESC 13, [2008] 4 I.R. 235 where, in a case of alleged prosecutorial delay, this court disapproved the judgment in *Director of Public Prosecutions v. Arthurs* [2000] 2 I.L.R.M. 363, noting that the judgment did not set out any criteria to determine what might constitute an exorbitant delay in the context of prosecution of summary offences. I would be strongly of the view that courts should not act as legislators to frame a subjective limitation period for the prosecution of criminal offences, even offences of a summary nature, and should in every case where delay is established conduct the balancing exercise indicated in *Barker v. Wingo* (1972) 407 U.S. 514. […]
>
> In this context I see no basis for applying a separate legal regime to summary prosecutions than that which arises in the case of indictable offences. Obviously, however, it follows from everything already said that delay will more rapidly become blameworthy and delays of lesser magnitude will be seen as more likely to be intolerable where summary proceedings are concerned."

DISCUSSION

(1). HAS THERE BEEN BLAMEWORTHY PROSECUTORIAL DELAY

20. The first issue to be addressed is whether there has been blameworthy prosecutorial delay. The onus lies with the Applicant in this regard. Moreover, the Applicant is obliged to indicate what is the norm in terms of the time taken for the various stages of a criminal investigation and prosecution. This obligation has been explained as follows by the Supreme Court in *McFarlane v. Director of Public Prosecutions* [2008] IESC 7, [2008] 4 I.R. 117 (at paragraph 143):

> "Before an entitlement to prohibition arises it seems to me that a number of requirements must be met. Firstly, an applicant must go further than merely point to a lengthy lapse of time from the inception of criminal proceedings until the date when prohibition is sought. He must demonstrate that the prosecutorial and/or systemic delay complained of is well outside the norm for the particular proceedings and procedures involved. Not every delay is significant and not every delay warrants the description of being blameworthy to such a degree as to trigger an inquiry by the court under *P.M. v. Director of Public Prosecutions* [2006] IESC 22, [2006] 3 I.R. 172 or *Barker v. Wingo* (1972) 407 U.S. 514. In my view an applicant should adduce and place before the court some evidence of what the norm is in terms of time taken for the particular process. This is not to impose an unrealistic obstacle in the way of an applicant. Information as to the average length of time it takes for various forms of proceedings to get on for hearing both in the High Court and in this court is readily available from the courts service."

21. Counsel on behalf of the Applicant seeks to characterise the nature of the criminal investigation at issue in the present case as straightforward. Counsel submitted that the investigation should have been completed and any charges preferred within a period of three months. Any lapse of time beyond three months was said to be blameworthy.

22. With respect, this timeline is unrealistic and finds no support in the case law. The investigation in the present case was in respect of an alleged assault causing harm. This is a serious offence, and this is reflected by the fact that such an offence is a hybrid offence, i.e. one which may be tried on indictment or summarily. It was appropriate,

therefore, for An Garda Síochána to investigate the offence thoroughly, and, in particular, to seek to interview both parties involved in the altercation and the independent witness, before seeking directions as to whether to institute a criminal prosecution.

23. A period of some six months elapsed between the date of the initial complaint by the alleged victim of the assault and the first contact by the investigating officers with the Applicant. This was so notwithstanding that the Applicant himself had attended at Balbriggan Garda Station and made a voluntary statement on the date of the alleged assault. It seems that the investigating officers in Swords Garda Station had been unaware of the existence of this statement. Had they been aware of this statement, then they would, presumably, have made contact with the Applicant earlier. In the event, contact was not made until September 2019. As discussed above, the Applicant is not the registered owner of the vehicle which he had been driving on 25 February 2019 and was ultimately identified by reference to the policy of insurance.

24. It will be necessary in due course to assess the overall progress of the criminal investigation and prosecution in order to decide whether there has been culpable delay. The lapse of some six months, *taken in isolation*, does not amount to blameworthy prosecutorial delay. The time is not well outside the norm for the investigation of a complaint of a serious assault. The fact, if fact it be, that the investigating officers could have identified the Applicant *earlier* had they been aware of his voluntary statement does not support a finding of culpable delay. The duty of reasonable expedition does not require that any particular investigation must be carried out with all haste. Rather, An Garda Síochána have some latitude as to how they allocate resources and prioritise investigations, subject to the overarching duty of reasonable expedition.

25. The events between September 2019 and August 2020 do not disclose any blameworthy prosecutorial delay. The investigating officers acted reasonably by seeking to have the

Applicant attend, by appointment, for a cautioned interview. The Applicant, as is his right, declined to do so. The investigating officer made a renewed effort in May 2020 to have the Applicant attend for a cautioned interview. The Applicant, acting on the advice of his solicitor, again declined to attend. Relevantly, the solicitor asserted that no urgency could possibly attach to the investigation.

26. In circumstances where the Applicant, having been afforded a reasonable opportunity to do so, failed to attend for interview voluntarily, it became necessary for An Garda Síochána to invoke their statutory power of arrest. This occurred on 30 May 2020.

27. There was some suggestion at the hearing before me that it was unreasonable for the investigating officers to have sought to interview the Applicant in circumstances where he had previously provided a voluntary statement. If and insofar as this submission is being stood over, it is not well founded. The voluntary statement was given at a time prior to the commencement of the criminal investigation. The investigating officers had since received a complaint of a serious assault and had been provided with medical evidence which might, on one view at least, corroborate the alleged victim's version of events. It was entirely appropriate that the investigating officers would seek to interview the Applicant under caution and to put to him the alleged victim's version of the altercation and the medical evidence. Indeed, this was in the Applicant's interests, in that it allowed him an opportunity to respond to the complaint before a decision was made on whether to pursue a criminal prosecution.

28. It should be emphasised that it is not the function of the court of judicial review to direct An Garda Síochána as to how to conduct their investigations. The discussion in this judgment is addressed, instead, to the narrower question of whether there has been blameworthy prosecutorial delay. The court's analysis is confined to saying that it was not unreasonable, in the particular circumstances of this investigation, to seek to

interview the Applicant under caution, and, when this was not agreed to voluntarily, to invoke the statutory power of arrest. There is no suggestion that the arrest was unlawful.

29. In summary, therefore, the criminal investigation had been completed and the Applicant charged with an offence within a period of eighteen months from the date of the alleged assault. The investigation could have been concluded in a shorter period of time had the Applicant attended for a cautioned interview in September 2019 as requested. The Applicant, as is his undoubted right, declined to do so. Nevertheless, the Applicant's contribution to the delay and his solicitor's insistence that there was no urgency attaching to the investigation are relevant factors in assessing whether there has been blameworthy prosecutorial delay. The Supreme Court has consistently emphasised that the failure of an accused person to assert his right to a speedy trial may make it more difficult to prove that he wanted or was denied a speedy trial, citing *Barker v. Wingo* (1972) 407 U.S. 514. Having regard to the seriousness of the alleged assault, and the consequences of the Applicant's own conduct, the period of eighteen months was reasonable and does not disclose any blameworthy prosecutorial delay.

30. The next period of supposed delay relates to the events before the District Court. The criminal prosecution initially came before the District Court in September 2020. The District Court dealt first with the question of whether it should accept jurisdiction. Thereafter, the District Court directed disclosure and same was complied with by January 2021. The period of time involved in these procedural steps, i.e. some four months, is not unreasonable.

31. The proceedings were subsequently delayed in consequence of the public health measures introduced in response to the Coronavirus pandemic. The President of the District Court had issued directions which prioritised the hearing of cases involving persons in custody and those not involving civilian witnesses. The reasonableness of

these measures has recently been upheld by the High Court (Stack J.) in *Pauletti v. Director of Public Prosecutions* [2022] IEHC 714. The Applicant in the present case has not sought to suggest that these measures were unreasonable.

32. The criminal prosecution was allocated a trial date of 1 November 2021. However, the trial did not proceed on that date in the following circumstances. The Applicant's solicitor had indicated, for the first time, on the trial date that the defence wished for Garda Finnegan to give evidence at the trial. It will be recalled that Garda Finnegan is the guard to whom the Applicant had made his voluntary statement on the day of the alleged assault. The prosecution did not intend to rely on this voluntary statement, and, therefore, did not intend to call Garda Finnegan to give evidence. Accordingly, Garda Finnegan was not in court on 1 November 2021. The trial had to be adjourned to allow the defence time to serve a witness summons upon Garda Finnegan.

33. Any loss of time arising in consequence of this adjournment cannot be attributed to the prosecuting authorities. If the Applicant had wished to call Garda Finnegan as a witness, then his solicitor should either have sought confirmation from the prosecution that they intended to call Garda Finnegan or have served a witness summons on the guard. It should have been apparent from the absence from the disclosure material of any witness statement by Garda Finnegan that the prosecution did not intend to call him.

34. The adjournments on 10 January 2022 and on 25 July 2022, respectively, were as the result of one of the investigating officers contracting Covid-19. There was some suggestion at the hearing before me that it was not essential that the relevant officer, Garda Cluskey, be in attendance. With respect, this submission is not well founded. As flagged earlier, Garda Cluskey had been on duty at Swords Garda Station on the date upon which the alleged victim attended to make his complaint. Garda Cluskey had been the investigating officer. Garda Cluskey had been one of the officers who had arrested

and interviewed the Applicant on 30 May 2020. A witness statement by Garda Cluskey had been included in the disclosure materials. In all the circumstances, Garda Cluskey was central to the prosecution, and it was entirely proper for the District Court to have adjourned the proceedings because of her unavailability.

35. It is significant that the District Court took steps on 25 July 2022 to ensure that the criminal prosecution would be heard following the August recess. More specifically, the District Court listed the case on a peremptory basis for 12 September 2022. But for these judicial review proceedings, the criminal prosecution would have been disposed of on that date.

36. For the reasons above, the Applicant has failed to establish that there has been blameworthy prosecutorial delay. Much of the lapse of time has been the result of two factors which are outside the control of the prosecuting authorities. The first factor is the Coronavirus pandemic. This necessitated the introduction of restrictions on court sittings in the interests of public health. It also presented practical difficulties in respect of the availability of parties, witnesses and prosecutors, as individuals contracted the virus. This led to hearing dates having to be vacated.

37. The second factor is the conduct of the Applicant himself. The Applicant caused an otherwise avoidable loss of time by declining to attend for an interview in September 2019. The Applicant was, of course, fully entitled to take this approach. The conduct of an accused person is, however, relevant to the question of prosecutorial delay. The position is put as follows by the Supreme Court in *Devoy v. Director of Public Prosecutions* [2008] IESC 13, [2008] 4 I.R. 235 (at paragraph 58):

> "An applicant's assertion of his right to a speedy trial is entitled to strong evidentiary weight in determining whether he is being deprived of his constitutional right; a failure to assert the right may make it more difficult for an applicant to prove that he wanted or was denied a speedy trial. In this context the United States Supreme Court

> noted that delay may sometimes operate to the advantage of a defendant."

38. As is apparent from his solicitor's letter of 13 May 2020, the Applicant did not consider that the investigation was urgent.

(2). BALANCING EXERCISE

39. For the reasons explained under the previous heading, I have concluded that the Applicant has failed to establish that there has been blameworthy prosecutorial delay. Strictly speaking, it is not necessary, therefore, to move to the second limb of the test, namely the carrying out of the balancing exercise. For completeness, and lest my first finding be incorrect, the balancing exercise is now carried out *de bene esse*.

40. It should be explained that the balancing exercise does not fall to be carried out where either (i) the prosecutorial delay has given rise to a real and unavoidable risk of an unfair trial, or (ii) there is presumptive prejudice. It is necessary, therefore, to consider whether the supposed delay in the present case has had either of these effects. If so, the trial should be halted.

41. The overall lapse of time between the date of the alleged offence and the peremptory hearing date is approximately three and a half years. This time period is not such as to give rise to presumptive prejudice. As to whether there is a real and unavoidable risk of an unfair trial, the Applicant has not identified any specific prejudice which is said to arise as a result of the delay in prosecution. Rather, the Applicant relies on general prejudice arising from the risk that the memories of witnesses will have faded with time. The Applicant also makes the point that there is no CCTV footage in respect of the incident giving rise to the alleged assault.

42. None of this supports a finding that there is a real and unavoidable risk of an unfair trial. The delay is modest, i.e. three and a half years, and this should not materially affect the

ability of the witnesses to recall what was, on either participant's version, a dramatic event. The Applicant has not suggested that his own ability to recall the events has been affected. There are three principal witnesses: the accused, the alleged victim and an independent witness. The two participants each made a statement to An Garda Síochána on the date of the incident. There is also objective medical evidence which may be of assistance to the court of trial in determining what occurred. If it transpires during the course of their oral evidence that a particular witness' recollection is unreliable, then an application may be made for a directed dismissal.

43. Given that there is not a real and unavoidable risk of an unfair trial, it is appropriate to engage in the balancing exercise identified in the case law whereby the community's entitlement to see crimes prosecuted must be weighed against the accused person's constitutional right to an expeditious trial.

44. The Applicant avers that the prosecution has caused him stress and embarrassment; has cost him money; is hampering his career development; and has required him to give up the hobby he enjoys (which involves firearms). It should be observed that these could have been addressed by allowing the criminal prosecution to proceed, on a peremptory basis, in September 2022 as directed by the District Court. The bringing of these judicial review proceedings has had the direct consequence of further delaying the criminal prosecution.

45. For the reasons which follow, the balance comes down in favour of allowing the criminal prosecution to proceed. First, the offence in respect of which the Applicant has been charged, i.e. assault causing harm, is a serious one. Indeed, it is an offence which is prosecutable on indictment. In this case, the allegation is that—and it must be emphasised that it is only an *allegation* and that the Applicant enjoys the presumption of innocence—the Applicant engaged in an unprovoked assault which resulted in the victim

sustaining a broken nose. There is a strong public interest in ensuring prosecutions for alleged offences of this severity be determined on their merits rather than dismissed *in limine* on the grounds of delay. Secondly, the delay is modest. But for the intervention of these judicial review proceedings, the criminal prosecution would have been heard within three and a half years of the date of the alleged offence. Thirdly, the Applicant has not been subject to pre-trial incarceration. At all times, the Applicant has been remanded on bail. Fourthly, the nature of the stress, anxiety and embarrassment asserted by the Applicant is not such as to justify an order of prohibition. See *L.E. v. Director of Public Prosecutions* [2019] IEHC 471 (at paragraph 88) as upheld by the Court of Appeal sub nom. *Director of Public Prosecutions v. L.E.* [2020] IECA 101. Finally, some weight must be given to the Applicant's own contribution towards the delay.

CONCLUSION AND PROPOSED FORM OF ORDER

46. The delay in the criminal prosecution is modest, i.e. three and a half years, and does not create a real and unavoidable risk of an unfair trial. The Applicant has failed to establish that there has been blameworthy prosecutorial delay. Much of the lapse of time has been the result of two factors which are outside the control of the prosecuting authorities. The first factor is the Coronavirus pandemic. The second factor is the conduct of the Applicant himself. The balance of justice comes down in favour of allowing the criminal prosecution to proceed for the reasons explained at paragraph 45 above. Accordingly, the application for judicial review is dismissed.

47. As to costs, my *provisional* view is that the Director of Public Prosecutions, having been entirely successful in resisting the application for judicial review, is entitled to recover her legal costs as against the Applicant. This would represent the default position under Section 169 of the Legal Services Regulation Act 2015. If either party wishes to contend

for a different form of order than that proposed, they should contact the registrar before 15 January 2024 and arrange to have the matter relisted before me on a Monday convenient to the parties.

Appearances

Kathleen Leader SC and Marie Flynn for the applicant instructed by MacGuill & Company
Lily Buckley for the respondent instructed by the Chief Prosecution Solicitor

Approved