



Neutral Citation Number: [2026] EWHC 862 (Admin)

Case No: AC-2025-LDN-002974

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION
ADMINISTRATIVE COURT

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 14/04/2026

Before :

HHJ KAREN WALDEN-SMITH sitting as a Judge of the High Court

Between :

**R (on the application of SYEDA FATINAH
HOSSAIN)**

Claimant

- and -

SECRETARY OF STATE FOR JUSTICE

Defendant

STUART WITHERS (instructed by **PRISONERS' ADVICE SERVICE**) for the **Claimant**
MATTHEW HOWARTH (instructed by **GOVERNMENT LEGAL DEPARTMENT**) for
the **Defendant**

Hearing date: 20 March 2026

Approved Judgment

This judgment was handed down remotely at 10.30am on Monday 14 April 2026 by
circulation to the parties or their representatives by e-mail and by release to the National
Archives.

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HHJ KAREN WALDEN-SMITH:

Introduction

1. The claimant, Syeda Fatimah Hossain, challenges the decision of the Secretary of State for Justice (“SSJ”) to expand the exclusion zone contained in her licence conditions for release into the community.
2. The challenge is made against both the initial decision of the SSJ made on 21 May 2025 and a further decision made on 29 October 2025. The position of the SSJ is that the decision of 29 October 2025 supersedes the earlier decision and makes any challenge to the decision of 21 May 2025 entirely academic.
3. Permission was granted to bring judicial review proceedings by Christopher Kennedy KC, sitting as a deputy high court judge on 24 February 2026. An expedited hearing was listed to take into account as the licence conditions expire at the end of July 2026.
4. The Claimant contends that the Defendant’s fresh decision dated 29 October 2025 is unlawful under three grounds:

First, it was irrational in that: (i) the Defendant failed to obtain all relevant information prior to making its decision, (ii) the Defendant considered irrelevant considerations, (iii) the Defendant departed from the decision of the Parole Board without justification, (iv) the Defendant departed from its policy entitled ‘Licence Conditions Policy Framework’.

Second, the exclusion zone amounts to an unreasonable and disproportionate breach of the Claimant’s and her family’s right to a family life under Article 8 of the Convention. As this is alleged to be an ongoing breach it is appropriate for the Court to have regard to all relevant material.

Third, the Defendant failed to provide the Claimant with an opportunity to make submissions regarding the licence conditions prior to its fresh decision. As such the decision was procedurally unfair at common law, and/or in breach of the Claimant’s Article 8 rights.

Background

5. On 21 October 2021, the claimant received fixed determinate custodial concurrent sentences totalling 5 years and 4 months. She had pleaded guilty to two offences: (i) sexual activity with a child under 16 while in a position of trust (for which she received a custodial sentence of 5 years and 4 months); and (ii) perverting the course of justice (for which she received a concurrent custodial sentence of 16 months). She additionally received a 10-year Sexual Harm Prevention Order (SHPO) and a time-unlimited restraining order which prohibits the claimant from entering an area of Horsham known as Roffey.
6. The brief facts of the offences are that the claimant had groomed and had a sexual relationship with a 14-year student at the school she worked at in Horsham. She had subsequently made threats and false allegations against both the direct victim and his brother online: this offending had occurred in breach of her bail conditions.

7. The claimant is of Bangladeshi heritage and, as a young Muslim woman, she says her relationship with her family, and the need to live with the family, is extremely important. She suffers from an emotionally unstable personality disorder, post-traumatic stress disorder, anxiety and depression. In two statements provided after the renewed decision in October 2025, the claimant gives evidence that her father is suffering from poor mental health and that her sister has sustained a fall which has resulted in head injuries and seizures. These statements were subsequent to the decisions being made by the SSJ.
8. The claimant was released from custody on licence on her conditional release date of 24 November 2023. That release on licence was subject to a licence condition which prohibited the claimant from entering the entirety of West Sussex.
9. The claimant was recalled to prison on 9 February 2024 as a result of concerns that she had twice breached her SHPO while residing in approved premises. On 30 August 2024, she was acquitted of those two alleged breaches but found guilty of five counts of breach of the SHPO while on release on temporary licence, for which she was given a further sentence of 7 months' imprisonment. The sentence and licence expiry date for the index offences was set for 26 July 2026.
10. The SSJ referred the claimant's case to the Parole Board for consideration of further release on licence. As part of the Claimant's case being referred to the Parole Board, evidence was gathered which assessed the Claimant's risk and protective factors. This evidence formed a dossier for the Parole Board to consider, including supportive letters from her father, mother, sister and aunt including the difficulties with the claimant not being able to return to the family home. There were also reports by her community offender manager. On 6 September 2024 the community offender manager completed a "Part C: Ongoing Reviews – Release and Risk Management Report". Box 7 of the report recorded that the victim had been contacted on 30 August 2024, and he did not wish to provide a victim personal statement; Box 9 recorded that the claimant's risk of serious harm to the public was low, to a known adult was low, and to children was high; Box 14 E recorded a proposed exclusion zone licence condition: "*Not to enter the area of West Sussex as defined by the map without the prior approval of your supervising officer.*" The map was appended to the report.
11. At the oral Parole Board hearing on 30 January 2025 the claimant challenged being excluded from the entirety of West Sussex. On 11 February 2025, the Parole Board directed the Claimant's release.
12. The Parole Board decision sets out that the claimant was then aged 28 and that the details of the offending were that the claimant had been working as a "study supervisor" at an all-boys school and that she had groomed and had regular sexual intercourse with the 14-year old victim between November 2019 and March 2020 in her car and in her bedroom. The attempts to pervert the course of justice occurred after she had been arrested for the sexual offending, when she sent threatening messages to both the victim of the first offending and to members of his family under false names and accounts and made false allegations against the victim. The Parole Board further noted that the claimant suffers from complex mental health conditions, as referred to above.
13. The Parole Board noted that the claimant had been making sound progress on her return to prison and that her most up to date risk assessment probation provided that the

claimant posed a high risk of serious harm to children, a low risk to the public, known adults, staff and other prisoners. The OGRS score placed her within the category of offender with a low risk of reconviction within 12/24 months. The Parole Board determined that it was not necessary to include polygraph testing as a condition of her licence. Its decision letter records that no victim statement was provided, but that the victim was engaged in the victim contact scheme. The panel agreed with the Claimant's assessment of risk as provided by probation. With respect to the exclusion zone it set out that *"the panel prefers to accept the smaller geographic exclusion zone imposed by the court as part of the restraining order, as there is no impact statement, or reasons in the dossier to support the excessive size of the zone covering the whole of West Sussex. Should the COM/Victim Liaison Officer find compelling reasons why this zone is required, a variation of the licence conditions could be requested."* The exclusion zone imposed as a condition of the licence was that the Claimant was *"Not to enter the area of Roffey as defined by the map without the prior approval of your supervising officer"*. The Parole Board's decision letter further records that while no victim statement had been provided, the victim was engaged in the victim contact scheme. There was nothing relating to the views of either the victim or his family in reaching its determination that the exclusion area be limited to Roffey (as originally specified by the Crown Court) and not to the whole of West Sussex as had been a condition of the claimant's original licence conditions.

14. The Head of Service for the West Sussex Probation Delivery Unit, Gemma Sterry, became aware of the 11 February 2025 decision on 19 March 2025. She considered that the new, smaller, exclusion zone should be revised prior to the re-release of the claimant on licence. It is set out in her witness statement dated 21 November 2025, a multi-agency consultation was held on 25 March 2025, involving the claimant's probation practitioner, the senior probation officer, the West Sussex ViSOR police officer, and the Victim Liaison Officer, for the purpose of discussion and carrying out further assessment of the proportionality of the revised exclusion zone prior to the release of the claimant on licence.
15. The claimant's community offender manager had completed a licence variation form on 28 March 2025, the date of release, to change the exclusion zone to Horsham on the basis of a *"risk of disproportionate psychological harm for victims"*. The licence variation form was endorsed on 2 April by Gemma Sterry on the basis that the case had been discussed in a multi-agency form and that the *"victim's views have been considered, and it is agreed that the expansion of the exclusion zone is necessary and proportionate to manage potential risk presented by Ms Hossain, as well as to protect the victims in this case."*
16. The victim and his family had made renewed representations through victim liaison, setting out their heightened concerns about the prospect of an accidental encounter with the claimant given the proximity of the victim's home address to the claimant's home address. In addition to the concern about the inability to monitor any inadvertent or chance encounter, there was concern about the claimant's breaches of the SHPO, and her earlier non-compliance with bail conditions. The decision was made on 21 May 2025 to expand the exclusion zone to cover the entire area of Horsham. This area was wider than the area of Roffey imposed by the Parole Board, but smaller than the area of West Sussex that had been imposed at the time of the claimant's initial release on licence and proposed to the Parole Board. The exclusion zone covering Horsham not

only includes the victim's family address, but also includes where the claimant's immediate family lives.

17. Judicial review proceedings were issued with respect to that first decision of 21 May 2025 and on 2 October 2025, the SSJ filed an acknowledgment of service with no summary grounds of resistance on the basis that the claim would be academic as the defendant would be issuing a fresh decision.
18. A second decision was made by the SSJ on 29 October 2025, upholding the first decision to extend the exclusion zone to Horsham. The decision provided as follows:

“5.2 Ms Hossain requests that the exclusion zone be reverted to that imposed by the Parole Board in order that she may visit her family home and access the assistance of her family for reintegration purposes. The request being for the Horsham exclusion zone to be revoked and the exclusion zone of Roffey to be reinstated.

5.3 The victim, and the victim's family's positions, are that the exclusion zone should not be amended due to ongoing fear of psychological harm and the possibility of a chance encounter in Horsham. This is an issue deemed to have been exacerbated by the Parole Board who, in not fully considering the victim's position, took a decision to significantly reduce the previous exclusion zone of West Sussex, to one covering only the area of Roffey. I have assessed that the Article 8 factors in favour of the victim's position are as follows:

5.4 The victim and the victim's family live in the areas of the exclusion zone; within only 1.3 miles of Ms Hossain's family home making the possibility of a chance encounter potentially greater if there is no exclusion zone covering Horsham at all.

5.5 The victim and the victim's family request the right to be able to go about their business, to live, work and frequent the local shops and amenities in the Horsham area with a minimum of anxiety, and without undue restriction on their own movements. In addition, they request to be free from the fear of psychological harm potentially brought about from a chance encounter with Ms Hossain were the Horsham exclusion zone not to be in place.

5.6 Where the victim and the offender both have equal rights of access to the same type of location, a balance must be struck alongside acknowledging the sensitivities surrounding the emotional harm done to victims of crime. One example relevant to this case is, where the victim and offender would otherwise lie in close proximity to each other, an exclusion zone has been imposed in the area to permit the victim to go about their day to day lives without fear of confrontation.

5.7 I have sensitively considered whether there are any appropriate compromises by which Ms Hossain's risk could continue to be managed in a less intrusive way, including through the imposition of a corridor into the exclusion zone allowing Ms Hossain access to her family home. It is deemed that without ability to apply GPS trail monitoring in this case, Ms Hossain's compliance with a corridor could not be safely monitored, and nor could the potential for ongoing psychological harm or inadvertent contact between the parties (whether intentional or unintentional).

5.8 In consideration of the above relevant factors, and whether there is good reason to maintain the current exclusion zone of Horsham, I summarise that the interference with Ms Hossain's Article 8 rights brought about by this exclusion zone is considered proportionate, and that there is no less intrusive way to balance Ms Hossain's rights, against the victim's, and the victim's families, Article 8 rights in this case.

5.9 I conclude that the current exclusion zone licence condition remains necessary and proportionate to the management of psychological risk to the victim in this case. Accordingly my decision is that the exclusion zone licence condition currently in place, should not be varied."

19. By order of Tim Smith, sitting as a Deputy Judge of the High Court, on 10 November 2025, the claimant was given permission to amend its statement of facts and grounds to take account of the fresh decision made in October 2025 and for the SSJ to respond substantively to the amended statement of facts and grounds. As is set out above, permission to judicially review the decisions of May and October 2025 was granted on 24 February 2026. Permission was granted on all three grounds set out.

Application to amend to plead a further ground on the basis of further information

20. At the commencement of the hearing of this case, the court was provided with additional documentation and an oral application to amend the grounds upon which judicial review was sought by the claimant in order to add an additional ground. There was no draft of the amended ground but, in essence, the claimant was seeking to contend that the defendant was proceeding on a false premise in that the direct victim of the claimant's sexual offending was now not living permanently at his family home, as he was studying away at university.
21. The victim has the protection of lifetime anonymity as a victim of sexual offending pursuant to the provisions of the Sexual Offences (Amendment) Act 1992. Counsel for the claimant said he undertook (without instructions to do so) his own research about the victim and believes that the victim is studying away from home. Leaving aside whether it was wise for Counsel to undertake such research given the victim's protection of anonymity, his research resulted in correspondence between the claimant's representatives and the Government Legal Department (GLD) in which it was confirmed that the victim does not currently reside at all times in his family home, but that the family home was his permanent address and he spends significant periods

of time in his family home. Additionally, the family of the victim still live in the area. It was pointed out by the GLD that the probation service would not “keep tabs” on a victim of crime.

22. I have already given an extempore judgment on this application and refused permission to amend to rely on an additional ground. Reference should be made to that determination if necessary.
23. It was surprising that there was no draft proposal for the amendment, but most significantly the further information provided by the claimant did not give rise to an additional ground for challenge of the decision. The new information could not mean that the defendant was acting on a “false premise” as alleged on behalf of the claimant. The victim is entitled to live in his family home and travel to and from that home whenever he wishes. It makes no difference if the victim is away from the family home at different times as he does not have any obligation to inform anyone when he will be at the family home and he could be there at any time. It is not as if he and/or his family have moved away permanently. Further, the brother and the remainder of the family who live in Horsham, were also affected by the offending behaviour of the claimant (the brother directly so). The purpose of the restriction on where the claimant can go is to limit the possibility of inadvertent contact between the victim and his family with the claimant and to reduce the anxiety created by concern that there could be such a chance encounter. That is not in any way undermined by information that the victim himself may be spending some time away from the family home.

The Legal Framework

Licence Conditions

24. Determinate sentenced prisoners are released automatically on licence which include conditions, pursuant to the provisions of sections 244 and 250 of the Criminal Justice Act 2003. Licence conditions last for the length of the sentence and are imposed to address the risks posed by an offender on licence. Conditions are either standard, pursuant to Article 3 of the Criminal Justice (Sentencing) (Licence Conditions) Order 2015/337 or are prescribed conditions pursuant to Article 7 of the 2015 Order. The SSJ has the power to include additional licence conditions onto an offender’s licence pursuant to the provisions of section 250(4)(b)(ii) of the Criminal Justice Act 2003 (CJA 2003). Article 7(2)(h) allows a licence condition to be imposed which limits freedom of movement.
25. Release on licence maximises a prisoner’s chances of successful reintegration into the community and section 250(8) of the CJA 2003 provides that:

“In exercising his powers to prescribe standard conditions or the other conditions referred to in subsection (4)(b)(ii), the Secretary of State must have regard to the following purposes of the supervision of offenders while on licence under this Chapter—

 - (a) the protection of the public,
 - (b) the prevention of re-offending, and

(c) securing the successful re-integration of the prisoner into the community.”

26. Prisoners released on licence may be recalled to prison by the SSJ pursuant to the provisions of section 254 of the CJA 2003. The prisoner may be further released by the SSJ if satisfied that it is not necessary for the individual to remain in prison for the protection of the public (section 255C of the CJA 2003).
27. The Secretary of State has published guidance entitled ‘Licence Conditions Policy Framework’ issued on 7 November 2024 and reissued on 5 January 2025. The policy framework provides guidance as to how licence conditions are set, managed, and varied. The Licence Policy Framework contains the following, amongst others:

§3.22 - additional licence conditions must be necessary and proportionate.

§3.26 - victims have the right to make representations about licence conditions which relate to them.

§3.28 - licence conditions concerning victims are typically limited to exclusion zones or non-contact conditions, but in principle any condition may be requested if it is considered necessary and proportionate to manage the risk posed by an offender on licence. With respect to risk, licence conditions may be imposed which are sensitive to the emotional harm caused to the victims of crime (and their families). Appropriate conditions may be imposed so that the victim may go about their daily life without fear or coming across the offender on licence.

§3.29 - appropriate evidence of the necessity and proportionality of a particular condition must be put forward to the decision maker.

§3.30 - for exclusion zones due regard must be given to the offender on licence’s activity in relation to the exclusion zone balanced against the risks and rights of the victim and/or their family.

§3.33 - exclusion zones must have clear boundaries.

§3.36 - an offender may request access to the zone to a probation officer for a specific reason. This permission must only be given whether the access is for something that cannot be conducted outside of the zone. Family contact must take place outside the zone, unless specific evidence is shown why the family member cannot leave the zone to meet the offender.

§3.92 - if a community offender manager identifies that a risk or issue has changed, or new information is brought to their attention following release, which requires the alteration of a licence condition they must apply for a licence variation.

§3.94 – the decision maker as to licence condition variation is the Head of the Probation Delivery Unit for cases where release was automatic on initial release, and the Parole Board for cases where the prisoner was originally released following direction of the Parole Board.

§3.95 – in the case of recalled offenders who are subsequently re-released and have their licence varied, they are not considered by the Parole Board unless their original release was a result of a decision by the Parole Board.

§4.6 - community offenders must not request modification of licence conditions based on a change of risk of reoffending or serious harm, where those considerations were not the reasons for imposing that licence condition. Except where there was an increased risk to the victim identified and the community offender manager was seeking to mitigate that risk by increasing the restrictions set out by the licence conditions.

28. The SSJ is expected to follow that published policy unless there are good reasons for a departure (see, generally, *Lumba v Secretary of State for the Home Department* [2011] UKSC 12).

Article 8 of the ECHR

29. Article 8 provides that;

“1. Everyone has the right to respect for his private and family life, his home and his correspondence.

2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.”

30. In *R(Craven) v Secretary of State for the Home Department* [2001] EWHC 850 Admin, it was made clear that the imposition of an exclusion zone engaged the Article 8 rights of the claimant and his family (who had committed no offence) and therefore required justification pursuant to Article 8(2):

“Was distress to the victim's family a consideration that could lawfully be taken into account by the Parole Board and by the Home Secretary? There are two linked aspects to their distress for present purposes. There is their knowledge that, following Mr Craven's release, there is a risk of an accidental encounter with him; and there is the risk that there would be such an encounter, which might cause them considerable distress. In my judgment, these are matters that both the Parole Board and the

Home Secretary are entitled to take into account ...” per Stanley Burton J.

31. As Stanley Burton J. further explained:

“The citizen whose Article 8 right is infringed has the protection of the requirements of legal process, necessity and proportionality, so that it should be unnecessary too closely to circumscribe the interests of others to be taken into account under Article 8.2. Too close a definition of those rights and liberties may be too difficult and too restrictive of the variety and development of human interests. In any event, however, the respect for private life protected by Article 8 should include a victim's family's right to go about their business with a minimum of anxiety, and without undue restriction on their own movements. As Sedley J said in *R v Secretary of State ex p McQuillan* [1995] All ER 400 , 421, freedom of movement is a fundamental value of the common law, and, I would now add, of the Convention. But a restriction on movement resulting from fear and anxiety may be just as real as one resulting from a legally enforceable prohibition, and equally deserves to be taken into account.”

32. The exclusion zone is not only protecting the victim and his family from a chance encounter with the perpetrator but is protecting the victim and his family from the fear and distress caused by the prospect of a chance encounter:

“I consider that the imposition of an exclusion zone on the movements [of a convicted murderer], in order to minimise the risk of accidental contact between him and the family of his victim, should be considered as capable of being necessary in a democratic society which should be sensitive to the emotional harm caused to victims of crime, particularly of the most serious of crimes, to their anxieties and concerns, and to the risks of emotional or psychological harm in the event of an encounter between convicted murderer and the family of his victim.” Per Stanley Burton J.

33. In *Craven*, the court found that the initial exclusion zone, which covered the whole of Newcastle, but not the village outside Newcastle where the victim’s family lived, had been disproportionate. It was possible, on the facts of that case, to devise a transport corridor to allow the claimant to work in part of Newcastle even though the exclusion impacted upon the claimant’s ability to visit friends and watch Newcastle United play football at home without specific consent: “*I do not say that the revised zone is a perfect compromise of the interests of Mr Craven and his family and those of the family of his victim. Perfection is always difficult to achieve, and can be the enemy of the good. There remain risks of chance encounters in places outside the revised exclusion zone. However, in my judgment the revised terms of the licence and the revised exclusion zone reasonably accommodate the competing interests involved, and do so in a manner*

that, in relation to Mr Craven's convention rights, meets the requirements of proportionality. They are lawful and valid." (Stanley Burnton J.)

Procedural Fairness

34. The Court of Appeal considered procedural fairness in the context of the imposition of licence conditions in *R (Tabbakh) v The Staffordshire and West Midlands Probation Trust and the Secretary State for Justice* [2014] EWCA Civ 827:

“ In my judgment, the question to be asked in the present context is ... whether the system established by the guidance in the policy documentation is *inherently unfair* by reason of a failure to provide the offender with a fair opportunity to make meaningful representations about proposed licence conditions. If it is, then the guidance itself may be found to be unlawful; but if it is not, the correct target of challenge is not the guidance but any individual decisions alleged to have been made in breach of the requirements of procedural fairness. The key authority is the decision of the *Court of Appeal in R (Refugee Legal Centre) v Secretary of State for the Home Department* [2004] EWCA Civ 1481, [2005] 1 WLR 2219” Per Richards LJ.

35. The relevant threshold in finding a system to be inherently unfair was held to be a high one and the court will be slow to find that a system was inherently unfair and therefore unlawful. The most important role is that of the offender manager who works with the offender in relation to sentence planning, produces an OASys risk assessment after discussion with the offender, and shares that assessment with the offender and would, therefore, be in a position to put forward the offender's concerns when discussing licence conditions at MAPPA meetings and to raise with the offender any issues arising out of those meetings. It is the offender manager who has responsibility for recommending to the prison governor the conditions to be included in the licence. Those various aspects of the role of the offender manager fits comfortably within the system established by the guidance (see paragraph 52 of *Tabbakh*).
36. *Tabbakh* further establishes that any allegation of procedural unfairness has to be considered on the facts of the particular case.

Discussion and Conclusions

37. The Parole Board had determined that, with the lack of evidence to justify the very wide area of the entire county of West Sussex as the exclusion zone, the area of Roffey (where the victim's family home is located in Horsham) included in the restraining order was to be preferred as the exclusion zone. The Parole Board set out that if there was a compelling reason to seek a variation then that could occur. The heightened concerns of the family of the victim of a chance encounter with the claimant as a result of the decision to reduce the exclusion zone from West Sussex to Roffey were conveyed through victim liaison. This was the basis for the variation to extend the exclusion zone from Roffey to Horsham. The town of Horsham, while larger than the area of Roffey, was far less extensive than the exclusion area of the whole of West Sussex imposed on the original licence conditions and rejected by the Parole Board.

38. It is essential that the court is not quick to interfere with decisions made by those (such as probation) who are experienced in matters such as this. As is set out by Moses J in *R(Carman) v Secretary of State for the Home Department* [2004] EWHC 2400 (Admin), the licence conditions and assessment of risk to the public on which they are based:

“are matters of fine judgment for those in the prison and the probation service experienced in such matters, not for the courts. The courts must be steadfastly astute not to interfere save in the most exceptional case.”

39. Further, in *R(Gul) v Secretary of State for Justice* [2014] EWHC 272 the Divisional Court dismissed a challenge brought on the grounds of procedural fairness, making it clear that deference should be provided to the views of the Probation Service, and that: “*The courts must be steadfastly astute not to interfere save in the most exceptional case... I would emphasise the need to show a clear error of law or other public law flaw, and care not to give insufficient recognition to the expertise of the Probation Service.*”

Academic Decision

40. In my judgment, the first decision of the SSJ in May 2025 to increase the restriction zone from Roffey to Horsham was superseded by the reconsideration in October 2025. Any issues in the first decision were dealt with in the decision of October 2025, which was a full reconsideration taken after the claimant had challenged the SSJ’s decision made in May 2025. There is no relief that can be granted with respect to the first decision as that decision has been superseded by the October 2025 decision and where a fresh decision is made to the same effect after reconsideration, the focus of the judicial review shifts to the new decision: see, generally, *Akinola v Secretary of State for the Home Department* [2022] EWCA Civ 1308. That second decision has more detail than the first, and takes into account the matters that had been raised.

Ground 1: Irrationality Challenge

41. The claimant divides the irrationality challenge to the decision made on 29 October 2025 into six grounds:
- (i) A failure to carry out sufficient inquiry to fulfil the *Tameside* duty (relying on *R (Plantagenet Alliance Ltd) v SSJ* approved by *R (Balajigari) v SSHD* [2019] EWCA Civ 673);
 - (ii) An absence of consideration of how the exclusion zone affected the claimant between 21 May 2025 and 28 October 2025;
 - (iii) A failure to consider how to secure the successful integration of the claimant into the community, particularly with respect to her relationship with her family; and her own mental health;
 - (iv) There is no reference to the claimant’s mental health and the support of her family;
 - (v) There was a departure from the determination of the Parole Board findings that a less onerous exclusion zone was sufficient;
 - (vi) There was no new information that a wider exclusion zone was required.

42. Establishing irrationality is a high hurdle to overcome and, in my judgment, not arguably made out in this case. The decision of the probation service dated 29 October 2025 set out that after the decision of the Parole Board, to substantially reduce the exclusion zone to mirror that of the restraining order, had been made, a further assessment of the proportionality of the exclusion zone was undertaken and consultation was carried out with the probation practitioner, the senior probation officer for the practitioner, the West Sussex ViSOR police officer and the victim liaison officer and, together with the renewed representations from the victims, this led to the decision that there was a good reason for alteration to the exclusion zone licence condition. The Decision expressly sets out that when considering the impact of the Horsham exclusion zone, thought was given to the fact that the area would encompass the claimant's family home where her parents reside. The exclusion of zone of West Sussex, the exclusion zone imposed as a condition of the first release on licence, was far wider and also covered the claimant's family home. Consideration was given to the claimant's ability to access the assistance of her family with her reintegration and her contact with them "was sensitively considered". There was also consideration of a corridor of entry to enable the claimant to travel to and from her family home in Horsham, but that could not be monitored and it was determined that there was no less intrusive measure for managing the psychological risk to the victim and his family. On a fair reading of the Decision of the SSJ of 29 October 2025 it cannot properly be said that the decision maker failed to take into account relevant matters, particularly relating to the claimant, and her wish to reduce the size of the restriction zone. The claimant's right to a family life was not ignored, but rather that it was identified, and evaluated, and weighed against the rights and interests of the victim and his family.
43. The Decision records these considerations in paragraph 2.9 and, in paragraph 2.10, sets out that the exclusion zone does not prohibit the claimant from having contact with her family outside the exclusion zone or from having reintegrative assistance outside the zone. Nor does the exclusion zone prohibit the claimant from applying to enter the exclusion zone for specific reasons during the licence period, where the activity cannot be conducted outside the zone.
44. Re-integration was plainly an important part of the decision making process and the claimant, and her family's, Article 8 rights were plainly being considered alongside the Article 8 rights of the victim and his family. The SSJ was entitled to guard against the risk to the victim and his family, both with respect to prospect of a chance encounter and the concerns of the victim and his family that there was a prospect of a chance encounter. The weighing exercise to be undertaken is one for the SSJ. The probation service plainly undertook that weighing exercise after having undertaken broad consultation and having taken into account the issues that had been raised by the claimant. See *Dove J in R(R) v Secretary of State for Justice* [2016] EWHC 329 (Admin) for the principle that it is for the SSJ to make determinations with respect to guarding against risk.
45. The decision to extend the exclusion zone contained in the decision of 29 October 2025 was taken after there had been consideration of a wide range of material including the representations made on behalf of the claimant, including with respect to her current situation; the sentencing remarks of the judge; CPS court extracts concerning the claimant; the claimant's licence conditions and the exclusion zone; the Parole Board's Oral Hearing Directions; the claimant's OASys dated 7 May 2025; the information

relayed through the victim liaison officer; the relevant policy and the guidance. In addition to those considerations, there were communications with the claimant's probation practitioner, the senior probation officer for the probation practitioner, the West Sussex ViSOR police officer, the victim liaison officer (as set out above) and the senior probation officer for the victim contact scheme. The documentation, the consultations, including the new representations of the victim, and the representations made on behalf of the claimant establish that the decision maker had clearly acquainted herself with the relevant information to inform her decision in order that she was able to answer the question she needed to determine. She consequently fulfilled the *Tameside* duty.

46. There was no misapplication of the Licence Conditions Policy Framework in departing from the Parole Board's decision on the exclusion zone. The Parole Board had directed the re-release of the claimant and determined that the wide exclusion zone of West Sussex, as had been sought initially, was not justifiable in light of the lack of impact statement or reasons in the dossier "*to support the excessive size of the zone covering the whole of West Sussex.*" In reaching that conclusion the Parole Board expressly retained the potential that a variation of the licence conditions could be requested if the community offender manager or victim liaison officer "*find compelling reasons why this zone*" is required. That zone was the entirety of West Sussex, which was not sought pursuant to a variation – Horsham being deemed as being the proportionate area of exclusion.
47. Paragraph 3.92 of the Licence Conditions Policy Framework provides that if a community offender manager identifies that a risk or issue has changed, or new information is brought to their attention following release, which requires the alteration of a licence condition they must apply for a licence variation. The Parole Board's express reasoning for limiting the exclusion zone to Roffey was that it had no evidence to support the wide exclusion area of West Sussex. The heightened concerns of the victim and his family about the prospect of a chance encounter, and the fear of the prospect of a chance encounter, particularly as the family home of the claimant was approximately 1.3 miles from the family home of the victim in Horsham, amounted to a change in risk or issue. The prospects of a chance encounter could not be assessed as minimal.
48. The exclusion zone being imposed by the new licence condition – namely Horsham, was far less extensive than that was being considered by the Parole Board – namely West Sussex. The considerations of the necessity and proportionality of such a wide zone would not be identical to the smaller exclusion zone of Horsham.
49. In all these circumstances, the Licence Conditions Policy Framework was not misapplied by the SSJ. There was a change of circumstances and grounds for a variation under the provisions of paragraph 3.92 of the Framework.
50. The ground 1 challenge of irrationality must, therefore, fail. While the claimant contends that there was no increased risk to the victim and his family, the decision to extend the exclusion zone was not based upon an increased risk but as a consequence of the greater harm to the victim and his family both by the increased prospect of an encounter with the claimant but also because of the increased fear that there was a greater prospect of an inadvertent meeting with the claimant. There were realistic and rational concerns.

Ground 2: Article 8 Challenge

51. Any interference with Article 8 rights must be proportionate (*Bank Mellat v HM Treasury (No 2)* [2014] AC 700). The claimant contends that the interference with her article 8 rights are disproportionate and that the SSJ has failed to consider less intrusive measures.
52. The imposition of an exclusion zone as part of the claimant's licence conditions is an interference with her Article 8 right to respect for private and family life. That inference can be justified under Article 8(2) where it is in accordance with the law and necessary for the protection of the rights and freedoms of others (see Stanley Burton J in *Craven*). The rights of others, including the right of the victim and the victim's family to be able to move around their home town without undue restriction, are covered by Article 8(2).
53. The Decision dated 29 October 2025 properly balanced the competing Article 8 interests of the claimant and the victim and his family. These were set out, as can be summarised as follows:
 - (i) The claimant's contention that the exclusion zone should be limited to that of the restraining order, namely Roffey, so that she can visit her family at home in order to be assisted and supported by them with her reintegration;
 - (ii) The position of the victim and his family that they wish to be able to travel freely in Horsham, including shopping, without the prospect of a chance encounter with the claimant and the fear of the prospect of a chance encounter;
 - (iii) The proximity of the family homes being approximately 1.3 miles;
 - (iv) Why an access corridor was not logistically workable;
 - (v) That there was no less intrusive way to balance the claimant's rights against those of the victim and his family.
54. This is an entirely logical and appropriate structure for the considerations that the decision maker needed to undertake in order to determine whether the exclusion zone of Horsham was justified pursuant to the provisions of Article 8(2). There are conflicting Article 8 rights and it cannot properly be said in this case that the prospects of a chance encounter, and therefore the fear of there being such a chance encounter, are fanciful. Both families live in Horsham and only 1.3 miles away from each other. There is plainly the prospect of an overlap between the claimant and the victim and his family. In *R (Bentham) v Governor of Usk and Prescoed Prison* [2014] EWHC 2469 (Admin), Wyn Williams J determined on the facts of that matter that the prospects of a chance encounter were minimal and that the exclusion was unlawful. That was an entirely different factual scenario to the facts of this case.

55. Additionally the SSJ is entitled to take into account the previous behaviour of the claimant including her offending behaviour, namely the attempt to pervert the course of justice when on bail; and her breaches of the SHPO when previously on licence. The SSJ is entitled to impose conditions on a licence in order to provide protection, in this case to a former child victim of sexual offending, together with his family.
56. The possibility of a less intrusive restriction was considered by the SSJ as a designated travel corridor was explored, but it was determined that as the claimant had not been sentenced to a specified offence for the purpose of GPS trail monitoring, it was not possible to manage a travel corridor safely which therefore undermined the objective of the exclusion zone.
57. In her most recent statement dated 12 March 2026, the claimant sets out that she is still unable to meet with her parents regularly and that after her sister's fall in November 2025 when she hit her head, her sister has been suffering from seizures and is under the care of the hospital. Her father, who has mental health issues, is said by her to have deteriorated since her sister's accident and is unable to drive to London regularly. It appears from that statement that the family are concerned about leaving the claimant's father alone and that her mother only feels comfortable driving locally. As a consequence of these difficulties, the claimant is not seeing her parents regularly and she wants to have the ability to travel to her parents' home as she does not want to be seen outside as she could be recognised. She says that her own mental health is still poor and that she suffers from social anxiety. She says that she has limited funds, as she is not currently working, and therefore finds it difficult to travel to meet her family elsewhere out of the family home. Being of Bangladeshi heritage means that family is central to her and meeting at with her family at home together would be a comfortable place to meet for them all. She says that she knows she could ask for permission to enter the exclusion zone but she fears being refused, having previously been refused permission to attend her sister-in-law's "baby shower".
58. While this statement indicates a difficulty in meeting outside the family home, the statement of 12 March 2026, and her earlier statement dated 15 December 2025, were made by the claimant after the decisions under challenge were made and therefore not matters that can be taken into consideration. The lawfulness of the decision is assessed with reference to the material before the decision maker at the time of the decision on 29 October 2025. Even now, the claimant does not say that it is impossible for her to meet with her family outside Horsham. What she is doing is highlighting the difficulties and how meeting at the family home would be best for her.
59. The exclusion zone does interfere with the claimant's Article 8 rights, but in all the circumstances of this matter, that interference is necessary and proportionate to protect the ability of the victim and his family to travel freely and without fear of an inadvertent meeting. The restriction to Horsham is time-limited, in that it is a condition on her licence which extends to the end of her licence. That expires on 26 July 2026. Thereafter the restriction zone is Roffey as specified in the restraining order, which has been imposed without limit on time. The decision reached to extend the exclusion zone to Horsham which was one which was both lawful and rational. It is a proportionate and justifiable interference with the claimant's Article 8 rights and ground 2 of this judicial review challenge must also fail.

Ground 3 : Procedural Fairness challenge

60. The policy guidance does not create an inherently unfair system for the imposition of conditions and an offender is entitled to make representations through the offender manager (see Stephens LJ in *Tabbakh*).
61. In this case, the claimant has made representations through pre-action correspondence and during the course of the judicial review. The first representations were made on 24 April 2025 opposing the request for a variation to the licence. Further representations have been made during the course of these judicial review proceedings and the representations made on behalf of the claimant formed part of the review.
62. The challenge on the basis of procedural unfairness cannot, in my judgment, succeed. It is said on her behalf that she was not expressly asked to make representations prior to the second decision in October 2025, but I am satisfied that in the course of this matter the claimant was given a real opportunity to make representations. The Court of Appeal in *R(on the application of Nagappan Singaram) v Secretary of State for the Home Department* [2025] EWCA Civ 1375 reaffirmed that procedural fairness is context-sensitive. Lewis LJ set out that in *Singaram*, the claimant had been told he could make representations and there was no material unfairness as the claimant had already provided all the information he wished the decision-maker to consider, so there was “no, or no material, breach.” In this case, the claimant had provided her own circumstances bearing directly on proportionality, family contact and caring responsibilities, and the possibility of any lesser alternative. The claimant had a fair and effective opportunity to place before the decision maker all the information she considered relevant prior to the fresh decision made on 29 October 2025 – which included the representations made in the judicial review proceedings. The fact that the claimant has made two statements subsequent to the making of the fresh decision is a matter for the claimant.
63. The October decision clearly takes into account the position of the claimant and the reasons she put forward for the exclusion zone not to include her own family’s home including the cultural reasons she puts forward (bringing embarrassment to her family by not living with them) and her own mental health challenges. It was not necessary for the defendant to seek out further information from the claimant which she had every opportunity to provide through her legal representatives. This was not an arbitrary decision-making exercise.

Section 31(SA) of the Senior Courts Act 1981

64. Counsel for the SSJ raised in the course of oral submissions that the SSJ relied upon section 31(SA) of the Senior Courts Act which provides that:

The High Court—

- (a) must refuse to grant relief on an application for judicial review, and
- (b) may not make an award under subsection (4) on such an application,

if it appears to the court to be highly likely that the outcome for the applicant would not have been substantially different if the conduct complained of had not occurred.

65. In *R(Bradbury) v Awdurdod Parc Cenedleathol Bannan Brycheiniog (Brecon Beacons National Park Authority)* [2025] EWCA Civ 489, the Court of Appeal set out the principles to be applied where considering whether to refuse a remedy on a claim for judicial review on the basis that the outcome would not have been substantially different if the conduct complained of had not occurred:

“In relation to section 31(2A), the court is concerned with evaluating the significance of the error on the decision-making process. It is considering the decision that the public body has reached, and assessing the impact of the error on that decision in order to ascertain if it is highly likely that the outcome (the decision) would not have been substantially different even if the decision-maker had not made that error. It is not for the court to try and predict what the public authority might have done if it had not made the error. If the court cannot tell how the decision-maker would have approached matters, or what decision it would have reached, if it had not made the error in question, the requirements of section 31(2A) are unlikely to be satisfied. There is limited guidance from this Court as to the operation of section 31(2A). “ per Lewis LJ

66. In this case, I do not consider that there is any need for the court to take this course as there was no public law error. It would not be appropriate, in these circumstances, to stray into what is a decision to be made by probation.
67. For the reasons set out above, the challenge to the decision of the SSJ is not made out on any of the three grounds put forward.