



Claim no. AC-2024-LON-001844

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION (ADMINISTRATIVE COURT)
BETWEEN:

THE KING

on the application

THE BLACK EQUITY ORGANISATION
(a charitable incorporated organisation)

Claimant

-and-

(1) THE MAYOR'S OFFICE FOR POLICING AND CRIME
(2) THE SECRETARY OF STATE FOR JUSTICE

Defendants

CONSENT ORDER

UPON the Claimant's claim for judicial review challenging, inter alia (a) the First Defendant's decision to extend its GPS knife crime pilot ("**the Pilot**") in unmodified form, (b) the Second Defendant's decision to extend her involvement in the Pilot in unmodified form (the "**Claim**")

UPON the Claim being stayed on 30 May 2024 (with the stay being extended on 21 June 2024 and again on 14 August 2024 and again on 27 September 2024) to enable the parties to engage in Alternative Dispute Resolution

UPON the Second Defendant proposing Alternative Dispute Resolution, and an Alternative Dispute Resolution meeting therefore taking place on a without prejudice basis between the parties on 18 July 2024

UPON the exchange of without prejudice save as to costs correspondence between the Claimant's solicitors and the Defendants' solicitors of 25 July 2024, 2 August 2024, 5 August 2024, 14 August 2024, 3 September 2024, 27 September 2024, 11 October 2024, 14 October 2024 and 18 October 2024

AND UPON the Claimant agreeing to withdraw the Claim on the terms set out in the Schedule to this Order

AND UPON the parties being engaged in good faith, without prejudice save as to costs discussions on the question of costs;

BY CONSENT, IT IS ORDERED THAT

1. The claim is withdrawn.
2. **[Removed as the parties have agreed costs, pursuant to the Claimant's letter of 6 January 2025.]** ~~In the event the parties do not reach agreement on the question of costs by Friday 20 December 2024, submissions on costs shall be dealt with as follows:~~

- ~~a. The Claimant is to file and serve any submissions on costs, with any such submissions limited to two pages, by Friday 10 January 2025.~~
- ~~b. The Defendants are to file and serve any submissions on costs, with submissions limited to two pages for each Defendant, by Friday 24 January 2025.~~
- ~~c. The Claimant is to serve any submissions in reply, with any such submissions limited to two pages, by Friday 31 January 2025.~~

We, the Solicitors for the parties, hereby confirm our consent on behalf of our clients to an Order being made on the terms set out above.

Signed: ... *Camara Matts* (solicitor for the Claimant)

Dated: 26 November 2024

Signed: ... *EP Prado*

For the Treasury Solicitor,
Government Legal Department
102 Petty France

London

SW1H 9GL

Tel: 020 7210 1357

Ref: Z2404675

(solicitor for the Secretary of State for Justice)

Dated: 20 November 2024

Signed: ... *TK Legal* (solicitor for the Mayor's Office of Police and Crime)

Dated:26/11/24..... BY THE COURT

ADMINISTRATIVE COURT OFFICE
ORDER BY CONSENT
<i>LR Watton</i>
Lydia Watton, ACO Lawyer (CPR 54.1A)
31 January 2025

Service of this order

The Court has provided a sealed copy of this Order to the serving party:

Government Legal Department

102 Petty France

Westminster, London

SW1H 9GL

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Defendants

SCHEDULE TO CONSENT ORDER

TERMS OF SETTLEMENT

Upon the Defendants agreeing to take the steps below, the Claimant has agreed to withdraw the Claim.

- a. The Pilot selection factors set out in the 'Knife Crime GPS tagging on license pilot – Suitability checklist' document are withdrawn. No selection factor relating to or approximating "gang" membership or association will be used in selection for tagging under the Pilot.
- b. The Defendants will collect and evaluate data, and publish data and analysis, relating to racial disproportionality in selection for GPS tagging under the Pilot in the manner and frequency detailed at Annex A to the Schedule to the Consent Order.
- c. A revised 'Pilot eligibility checklist' document will be published on the First Defendant's website from 23 August 2024. Any future revised eligibility criteria will also be published.

BY THE COURT

- d. The Pilot 'Wearer Introduction' document (given to persons selected for GPS tagging under the Pilot) will be amended from 18 September 2024 to include: (i) the Pilot eligibility criteria, (ii) details of the processes to make prison and probation complaints about licence conditions, and (iii) information regarding how individuals selected for tagging can submit a Subject Access Request to obtain further information about the rationale for selection for GPS tagging.
- e. The Pilot protocol will be amended by 14 October 2024 to require the provision of the 'Wearer Introduction' document to offenders at the earliest possible point in time prior to release i.e. at the point of referral into the Pilot. Pursuant to existing probation processes, and wherever possible, the GPS tagging condition will be explained to the offender and an opportunity afforded for them to ask questions and seek clarification of the reasons for imposing this license condition as part of pre-release discussions.
- f. The Defendants will undertake a rapid review of the Pilot. The Terms of Reference are attached as Annex B to this Schedule to the Consent Order.
- g. The Claimant is invited to join the Second Defendant's Electronic Monitoring Advisory Group.

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ANNEX A:
AGREED PROPOSALS ON
DATA COLLECTION AND PUBLICATION

Terms used

'eligible cohort' means individuals eligible to be selected onto the Pilot.

'eligibility criteria' means the criteria used to select individuals from the eligible cohort onto the Pilot.

Agreed proposals on data collection and publication

With regards to data, the Parties have agreed as follows:

MoJ will produce two annual proxies of the eligible cohort for MOPAC analysts to compare with information on those actually monitored under the Pilot, with a view to identifying any unlawful racial discrimination. These datasets and comparison will be published by MoJ in 2024, 2025 and 2026 in a format agreed between MoJ and MOPAC.

The details of the proxy datasets are as follows:

- a) The first dataset will provide data on the total number of individuals who :
 - Were released from prison on licence during the period of 1 Feb 2019 to 26 Feb 2024 (inclusive);
 - had been serving a custodial sentence for an offence involving a knife or a bladed/sharpened weapon where this is specified in statute as part of the wording for the offence.
 - were released from an eligible prison;
 - on release were managed by London Probation Service;
 - were adults (18+ years old) at the time they were released from prison
 - using data from the National Offender Management Information System (NOMIS) and National Delius (the Probation Service case management system).

- b) The second dataset will provide data on the total number of individuals who :
 - Were in prison or who were released from prison on licence in the community on 30 June 2024;
 - had been serving a custodial sentence for an offence involving a knife or a bladed/sharpened weapon where this is specified in statute as part of the wording for the offence.
 - on release were, or will be, managed by London Probation Service;
 - were adults (18+ years old) at the time they were released from prison
 - using data from National Delius (the Probation Service case management system).

ANNEX B:

TERMS OF REFERENCE FOR RAPID REVIEW

Terms of Reference for Rapid Review of the Electronic Monitoring Pilot for Knife Crime

Introduction

These Terms of Reference ('**ToR**') are for a rapid review to be conducted by the Mayor's Office for Policing and Crime ('**MOPAC**') and Ministry of Justice ('**MOJ**'), into the London GPS tagging pilot for knife crime offenders on licence ('**the Pilot**'). The Pilot involves the GPS monitoring of certain offenders deemed eligible following release from prison on licence.

The Pilot is part of a wider strategy to reduce knife crime in London, and so keep the public safe. The specific aims of the Pilot are to (a) improve the management of the risk to the public, children and known adults; (b) improve the enforcement of licence conditions and deter further offending; (c) to change and positively influence offender thinking and behaviour through the use of location data in supervision; (d) to share location data appropriately for enhanced crime detection; and (e) to encourage best learning on how information can be shared with police and other agencies within legal boundaries and Information Commissioner's Office guidelines.

The essential eligibility criteria for the Pilot are that the offender is aged over 18, subject to a determinate prison licence, serving a sentence for either a knife possession offence or another offence which involved the use of a knife or bladed object, that they are being released from an eligible prison, released to a London borough, and released to viable accommodation (so as to enable tag charging). Inclusion in the Pilot is based on whether GPS monitoring is necessary and proportionate to manage the assessed risk (of serious harm and of reoffending) for each offender who meets the eligibility criteria.

MOPAC and MOJ are the principal agencies involved in the commissioning and delivery of this Pilot. In light of existing data analysis by MOPAC showing racial disproportionality in selection for tagging and concerns raised regarding apparent unlawful discrimination by Black Equity Organisation ('**BEO**') MOPAC and MOJ are undertaking a rapid review, on the terms set out below.

MOPAC and MOJ agree that unconscious bias, stereotyping and, unlawful racial discrimination have no place in the decision-making process involved in the Pilot, and also acknowledge the need for selection criteria not to result in unlawful indirect racial discrimination. To that end, measures put in place for selection for tagging in the pilot must seek to ensure against the possibility of any such unlawful racial discrimination.

MOPAC and MOJ believe the rapid review will be a valuable tool to increase understanding of the Pilot's operation, and to identify where mitigations and/or improvements can be made, to enhance delivery and outcomes, taking into account the aims of the Pilot and MOJ and MOPAC's commitment to rational, risk-based decision-

making, that is free from all forms of bias and unlawful discrimination.

MOPAC and MOJ have already worked to remove any potential reasons for the disparity in selection identified in existing data analysis by MOPAC, including removing the selection factors used by practitioners to decide who was appropriate for monitoring. Practitioners continue to use the objective eligibility criteria, prison and probation case management systems, risk assessments and professional judgment to decide who to monitor under the Pilot.

The purpose of the rapid review

The purpose of the rapid review is to urgently and comprehensively investigate racial proportionality in selection for tagging in the Pilot, through data collection and analysis, to seek to understand why any racial disproportionality arises, and to identify suitable mitigation measures to remedy any such unlawful discrimination if it is found to be based on factors outside of the agreed basis for inclusion within the Pilot.

Scope of the rapid review

The rapid review will consist of the following steps, agreed by MOPAC and MOJ:

1. Collecting and analysing further data to develop robust proxy comparison group(s) for the tagged cohort, which will be used to measure and analyse, as accurately as possible, the extent of any discrimination in selection for electronic monitoring.
2. Reviewing and updating key documents and processes within the Pilot to identify, and look to remove and/or amend, any features that might contribute towards any perceived or actual bias, poor practice or unlawful indirect racial discrimination in the Pilot.
3. Reviewing existing operational processes, to identify appropriate changes to how the Pilot operates so that prisoners are (a) informed as early as possible that they will be included in the Pilot and informed of the reasons for this wherever possible, and (b) are given information on how to seek further information and make a complaint about this decision, should they wish to do so.
4. Considering the EPF2 tool and its presentation as recently revised by MOPAC and MOJ, whether further revisions should be made, and whether further guidance should be given including on the basis for tagging and proportionate decision-making. In determining what guidance should be issued, MOPAC and MOJ will have regard in particular to the policy aims that decision-making should be objective and consistent and should not be subject to unconscious bias.
5. Considering existing practitioner training and whether training should be amended or supplemented, having regard to the policy aims set out in point 4 above.
6. Conducting 'extra risk analysis' on the tagged cohort. This will involve collating risk assessment information and demographic data for all tagged cases to date, to assess the extent to which there are consistent/inconsistent risk profiles for those tagged across different demographic groups and thus understand whether Black individuals with lower risk profiles are being disproportionately/inappropriately selected for tagging. The aim will be to complete this within three months, with approximately four to six further weeks for peer review.
7. Considering whether, in order to meet the purpose of the review, other parts of the Pilot should be reviewed and any other mitigation measures implemented.
8. The rapid review will be peer reviewed by someone external to and independent from MOPAC and MoJ with relevant expertise. The timescale for this will be dependent on the availability and workload of the reviewer.
9. The rapid review will be conducted as swiftly as is reasonably practicable.

What will be included in the final review document?

Upon completion of the rapid review, a report will be compiled by MOPAC and MOJ, comprised of these Terms of Reference together with key findings and recommendations, including addressing the 'extra risk analysis'. The report will also include a summary of all of the key findings by the external reviewer. The final report will be published.

BY THE COURT

31/01/2025