

Judicial Review Claim Form

In the High Court of Justice
Administrative Court

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

For Court use only	
Administrative Court Reference No.	CO/7548/2007
Date filed	24/8/07



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

Claimant(s) name and address(es)

name
Casey William Hardison

address
Casey William Hardison POWd (Civ)
HMP Swaleside LH5330
Sheerness, Kent
ME12 4AX

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

E-mail address

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

name

address

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

E-mail address

Claimant's Counsel's details

name

address

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

E-mail address

1st Defendant

name
Secretary of State for the Home Department

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

name
Treasury Solicitor

address
Treasury Solicitor
One Kemble Street
London WC2B 4TS

Telephone no. 020 7210 3000 **Fax no.** 020 7210 3410

E-mail address
treasury.solicitor@tsol.gsi.gov.uk

2nd Defendant

name

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

name

address

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

E-mail address

SECTION 2 Details of other interested parties

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

name
Advisory Council on the Misuse of Drugs

address
Advisory Council on the Misuse of Drugs
3rd Floor (SW), Seacole Building
2 Marsham Street
London SW1H 4DF

Telephone no.
020 7035 0454

Fax no.

E-mail address
ACMD@homeoffice.gsi.gov.uk

name
Transform Drug Policy Foundation

address
Transform Drug Policy Foundation
Easton Business Centre
Felix Road
Bristol BS5 0HE

Telephone no.
0117 941 5810

Fax no.
0117 941 5809

E-mail address
info@tdpf.org.uk

SECTION 3 Details of the decision to be judicially reviewed

Decision:
Claimant contests the decision to issue the Drug Strategy Consultation Document 'Drugs: Our Community, Your Say, A Consultation Paper, July 2007' and the decision not to withdraw it after being informed in a letter before claim of its procedural unfairness.

Date of decision:
The issue decision: 24 July 2007. The decision not to withdraw: 21 August 2007

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

name
The Rt. Hon. Jacqui Smith MP, Secretary of State for the Home Department

address
Secretary of State for the Home Department
50 Queen Anne's Gate
London SW1H 9AT.

SECTION 4 Permission to proceed with a claim for judicial review

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

Are you making any other applications? If Yes, complete Section 7. Yes No

Is the claimant in receipt of a Community Legal Service Fund (CLSF) certificate? Yes No

Are you claiming exceptional urgency, or do you need this application determined within a certain time scale? If Yes, complete Form N463 and file this with your application. Yes No

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

Does the claim include any issues arising from the Human Rights Act 1998? If Yes, state the articles which you contend have been breached in the space below. Yes No

SECTION 5 Detailed statement of grounds

set out below

attached

The SSHD has caused an unlawful consultation in that the July 2007 Drugs Strategy Consultation paper ("the DSCP"), 'Drugs: Our Community, Your Say' is procedurally unfair to consultees:

1) Insufficient information for an intelligent response: 1(a) consultees cannot establish which drugs are being referred to in the DSCP and response form questions because of the inconsistent, incorrect and non-transparent use of the word 'drugs'; 1(b) the DSCP fails to adequately justify or even acknowledge the inconsistent and non-transparent distinction it makes between 'drugs' and 'substances'; 1(c) (partly because of a) and b) above) consultees cannot determine if the second proposed aim ("the 2PA") "bringing the full force on law enforcement to bear on drug dealers at all levels" (p7) is to be applied equally to all "dealers" of drugs within the DSCP or if those "dealers" of drugs included in the DSCP but called 'substances', e.g alcohol, will be exempted; 1(d) if unequal treatment under criminal law is intended then comprehensive reasoning should be given as the 2PA may impact physical liberty; 1(e) Consultees cannot determine any reasoning in support of the 2PA or the assumptions which underpin it. 2) Proposal not still in a formative stage: 2(a) The 2PA appears not to be in a "formative stage"; 2(b) The DSCP fails to consult on regulatory options to the 2PA consistent with the Code of Practice on Consultations 2004, Criterion 6 annexed to the DSCP. 3) Consultees have a legitimate expectation to a comprehensive consultation on an evidence based Drug Strategy but this is thwarted by: 3(a) the DSCP admission that the 2PA lacks 'evidence'; 3(b) the DSC omits relevant 'evidence' from the statutory ACMD and a Parliament Select Committee showing that an unjustifiable unequal treatment under law of those who trade or use equally harmful drugs lay at the heart of Government's Drugs Strategy, so denying consultees their 'contribution' on this vital matter.

SECTION 6 Details of remedy (Including any interim remedy) being sought

1) Claimant seeks an interim injunction against the defendant prohibiting the continuation of the Drug Strategy Consultation process with the consultation paper until the merits of this Claim are decided in a substantive hearing or until further order;

2) Alternatively, in the interim, claimant will accept a written and published undertaking by the defendant to voluntarily : a) withdraw the consultation paper; b) halt the consultation; c) redraft and reissue the consultation paper consistent with the Code of Practice on Consultation 2004 Criterion 6 and the law on consultation within 90 days.

Otherwise, via a substantive hearing:

3) Claimant seeks a declaration that the Drug Strategy Consultation paper and process is unlawful.

4) Claimant seeks a prohibitory injunction against the defendant continuing the Drug Strategy Consultation process with the consultation paper 'Drugs: Our Community, Your Say' July 2007 and any other similar documentation.

5) Claimant seeks a mandatory order directing the SSHD to immediately a) withdraw the consultation paper 'Drugs: Our Community, Your Say' July 2007; b) halt the consultation process itself; c) redraft and reissue the consultation paper consistent with the Code of Practice on Consultation 2004 Criterion 6 and the law on consultation within 90 days and any other directions of the Court.

SECTION 7 Other applications

I wish to make an application for:-

1) Claimant seeks to have the substantive hearing on 31 August 2007 because of administrative convenience and to save taxpayers expense as Claimant, a serving prisoner, will be transported to a video-link facility at neighbouring prison for an oral permissions hearing for a distinct but not contextually unrelated Judicial Review CO/687/2007. N.B. Claimant asserts an accelerated timetable is in the public interest as the new consultation process will take 12 weeks and the new Drug Strategy is due to begin April 2008.

SECTION 8 Statement of facts relied on

Facts are set out here to reflect the numbered grounds in Section 5 of this N461:

1(a) The Drug Strategy Consultation paper ("the DSCP") uses the term 'drugs' incorrectly, inconsistently, and non-transparently: E.g. Correctly – "We know that there will always be some people who abuse legal and illegal drugs" (p.14); Incorrectly – "These groups include: children whose parents misuse drugs or alcohol" (p.9); Inconsistently – "Education in schools and other settings helps young people to acquire the knowledge, skills and understandings they need to keep themselves safe from harm when they encounter illegal drugs and legal substances such as alcohol, tobacco, medicines and volatile substances" (p.9); non-transparently – DSCP Question 28: "What role should the community play in tackling drug dealers and drug supply?"

1(b) The DSCP fails to adequately justify or even acknowledge the incorrect, inconsistent, non-transparent distinction it makes between 'drugs' and 'substances': E.g. "The current strategy aims to make information on drugs and other substances, such as alcohol, available to all young people and their families" and "Alcohol, cannabis and solvents, rather than Class A drugs such as heroin and cocaine, are the substances most commonly used by young people. It is more effective to address all substances that are misused by young people, including illegal drugs, alcohol and volatile substances, rather than focus on one type" (p.8).

1(c) Partly because of facts 1(a) and 1(b) above conjunct the inclusion of alcohol in the consultation, consultees do not know what the phrase 'drug dealer' means as used in the second proposed aim ("the 2PA") "bringing the full force on law enforcement to bear on drug dealers at all levels" (p7), thus consultees cannot determine if the 2PA is to be applied equally to all 'dealers' of drugs within the DSCP or if those 'dealers' of drugs included in the DSCP but called 'substances', e.g. alcohol and tobacco, will be exempted. It seems absurd that the 2PA is proposing prohibition of alcohol and tobacco by stealth.

1(d) If unequal treatment under criminal law is intended, this is not made clear and explicit, its necessity for treating disparately those who exercise property rights in equally harmful drugs is not set out, nor are sufficient reasons provided.

1(e) The DSCP contains no reasoning in support of the 2PA, its effectiveness, or the assumptions which underpin it.

2(a) The 2PA appears not in a "formative stage" as the SSHD's forward to the DSCP indicates it has been decided: "We remain resolute in our determination to put drug dealers out of business" and "[W]e are ambitious to harness the full force of our law enforcement might, [...], all bearing down on the dealers who profit from the harm and misery they supply" (p.5).

2(b) The DSCP fails to consult on alternative regulatory options to the 2PA consistent with the Code of Practice on Consultations 2004, Criterion 6 even though the DSCP declares in Annex C (p.35) that it "follows" the same Code.

3) Consultees have a legitimate expectation to a comprehensive consultation as the SSHD's forward states: "We want to have an open debate, engaging everyone who has a contribution to make" and "We have moved on from a polarised debate and single approaches to a balanced strategy focused on outcomes, based on evidence and delivered through partnership" (p.5); but:

3(a) the DSCP assumes the 2PA, prohibition of drugs commerce, would reduce drug harm yet highlights the lack of "evidence" to support this: "In the final analysis, reducing supply means causing shortages of drugs. In those circumstances we would expect the prices of drugs to rise and the purity to reduce. Sustaining those changes should, in conjunction with other elements of the drug strategy, contribute to a reduction of harms caused to individuals and the community by drug misuse and lead to reduced demand" But, "The fact that we have not yet reached a position in the UK where there has been an appreciable and sustained shortage of drugs means that we do not have direct experience of such effects" (p.23), "the effort that has been put into reducing the supply of drugs has not so far resulted in increased street prices" and "It has been difficult to discern a connection, which must exist to some extent, between the tactical successes (e.g. drugs seizures and arrests) and the shape of the market" (p.24).

3(b) the DSCP omits relevant "evidence" from the ACMD's 2006 report 'Pathways to Problems' which elucidates how the regulatory distinctions underpinning the legal framework of Government's Drug Strategy "are based on historical and cultural factors and lack a consistent and objective basis" (para 1.13) and that in exercising their duty under s1 MDA 1971 that they had discriminated upon the ground of legal status "For the ACMD to neglect two of the most harmful psychoactive drugs [alcohol and tobacco] simply because they have a different legal status no longer seems appropriate" (p.14). Thus, consultees are denied their "contribution" on the SSHD's arbitrary, "polarised" and "single approach" of treating like cases differently, i.e., of selectively criminalising those who exercise property rights in some but not all analogous and equally harmful drugs.

Statement of Truth

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

Full name Casey William Hardison

Name of claimant's solicitor's firm n/a

Signed _____

Claimant (s solicitor)

Position or office held _____

(if signing on behalf of firm or company)

SECTION 9 Supporting documents

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

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

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

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

The Statement of Grounds and Statement of Facts relied on internal to this N461 will be supplemented by a detail Statement of Case which will be mailed to be in the Court Office by August 28th 2007.

The following documents the Claimant proposes to rely on will be mailed to be in the Court Office by August 28th 2007:

- 1) The July 2007 Drugs Strategy Consultation paper ("the DSCP"), 'Drugs: Our Community, Your Say'
- 2) The 2004 Home Office document 'Consultation and Policy Appraisal: Compact Code of Good Practice'
- 3) The 2004 Cabinet Office document , 'Code of Practice on Consultations 2004'
- 4) Relevant excerpts from the September 2006 report of the statutory Advisory Council on the Misuse of Drugs, 'Pathways to Problems: hazardous use of tobacco, alcohol and other drugs by young people in the UK and its implications for policy'
- 5) Relevant excerpts from the July 2006 House of Commons Science and Technology Committee Session 2005-06 report HC 1031, 'Drug classification: making a hash of it?'
- 6) The October 2006 Command Paper 6941, 'The Government Reply to the Fifth Report from the House of Commons Science and Technology Committee Session 2005-06 HC 1031 Drug classification: making a hash of it?'
- 7) R (Greenpeace) v Secretary of State [2007] EWHC 311 (Admin)
- 8) R (Edwards and others) v Environment Agency and others [2006] EWCA Civ 877
- 9) R v North & East Devon Health Authority, ex parte Coughlan [2001] QB 213

The list of essential documents for advance reading by the court, with page references to the passages relied upon, will accompany the above documents.

NB. The Claimant is a serving prisoner where sometimes operational difficulties with staff will mean delays with computer access, printing, photocopying, and posting, etc. Please bear with him.

Signed _____ Claimant ('s Solicitor)

Judicial Review

Application for urgent consideration

This form must be completed by the Claimant or the Claimant's advocate if exceptional urgency is being claimed and the application needs to be determined within a certain time scale.

The claimant, or the claimant's solicitors must serve this form on the defendant(s) and any interested parties with the N461 Judicial review claim form.

To the Defendant(s) and Interested party(ies) Representations as to the urgency of the claim may be made by defendants or interested parties to the Administrative Court Office by fax - 020 7947 6802

In the High Court of Justice Administrative Court	
Claim No.	
Claimant(s) <i>(including ref.)</i>	Casey William Hardison
Defendant(s)	Secretary of State for the Home Department
Interested Parties	The Advisory Council on the Misuse of Drugs Transform Drug Policy Foundation

SECTION 1 Reasons for urgency

1) The Claimant seeks judicial review of the Government's Drugs Strategy Consultation paper ("the DSCP"), 'Drugs: Our Community, Your Say', A Consultation Paper, July 2007" which is currently being employed in consultation.

4) Claimant seeks to have the substantive hearing on 31 August 2007 because of administrative convenience and to save taxpayers expense as Claimant, a serving prisoner, will be transported to a video-link facility at neighbouring prison for an oral permissions hearing for a distinct but not contextually unrelated Judicial Review CO/687/2007.

3) Further, the current consultation leaves consultees in a position where they cannot respond intelligently and with a sense of shared purpose in formulating its aims. Also, the consultation is wasting the valuable time of the public in responding to an inadequate consultation and may even cause their disillusionment in the consultation process itself. If they lose faith in public consultation on what is a very significant issue, they may lose faith in participatory Government.

4) Claimant asserts an accelerated timetable is in the public interest as any new consultation process with a new consultation paper will take 12 weeks and the new Drug Strategy upon which it is consulting is due to begin April 2008.

SECTION 2 Proposed timetable *(tick the boxes and complete the following statements that apply)*

- a) The N461 application for permission should be considered within 7 days hours/days
- b) Abridgement of time is sought for the lodging of acknowledgements of service
- c) If permission for judicial review is granted, a substantive hearing is sought by August 31st 2007 (date)

SECTION 3 Interim relief (state what interim relief is sought and why in the box below)

A draft order must be attached.

1) Claimant seeks an interim injunction against the defendant prohibiting the continuation of the Drug Strategy Consultation process with the consultation paper until the merits of this Claim are decided in a substantive hearing or until further order;

2) Alternatively, in the interim, claimant will accept a written and published undertaking by the defendant to voluntarily : a) withdraw the consultation paper; b) halt the consultation; c) redraft and reissue the consultation paper consistent with the Code of Practice on Consultation 2004 Criterion 6 and the law on consultation within 90 days.

3) Interim relief is sought because the current consultation leaves consultees in a position where they cannot respond intelligently and with a sense of shared purpose in formulating its aims. Also, the consultation is wasting the valuable time of the public in responding to an inadequate consultation and may even cause their disillusionment in the consultation process itself. If they lose faith in public consultation on what is a very significant issue, they may lose faith in participatory Government.

SECTION 4 Service

A copy of this form of application was served on the defendant(s) and interested parties as follows:

Defendant

by fax machine to time sent
Fax no. time

by handing it to or leaving it with
name

by e-mail to
e-mail address

Date served
Date

Interested party

by fax machine to time sent
Fax no. time

by handing it to or leaving it with
name

by e-mail to
e-mail address

Date served
Date

Name of claimant's advocate

name

Claimant (claimant's advocate)

Signed