



Neutral Citation Number: [2026] EWHC 1303 (Admin)

Case No: AC-2024-LON-000414

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

Royal Courts of Justice  
Strand, London, WC2A 2LL

Date: 5 June 2026

Before :

**THE HONOURABLE MR JUSTICE MURRAY**

Between :

**THE KING**  
**(on the application of**  
**DAVID SAMUEL JUSTICE)**

**Claimant**

- and -

**PORTSMOUTH MAGISTRATES' COURT**

**Defendant**

- and -

**DIRECTOR OF PUBLIC PROSECUTIONS**

**Interested Party**

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**Ms Khatija Hafesji** (instructed by **Advocate**) for the Claimant  
**Mr Martyn Bowyer** (instructed by **Crown Prosecution Service**) for the Interested Party  
The Defendant did not appear and was not represented.

Hearing date: 4 December 2025

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**Approved Judgment**

This judgment was handed down remotely at 10.30am on 5 June 2026 by circulation to the parties or their representatives by e-mail and by release to the National Archives.

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Approved Judgment**Mr Justice Murray:**

1. The claimant, Mr David Justice, challenges by way of judicial review the decision of DJ(MC) Robinson (“the Judge”), sitting in the Portsmouth Magistrates’ Court (“the PMC”), on 30 January 2024 to proceed to try the claimant in his absence (“the Decision”), which resulted in his conviction on a charge of harassment.
2. As is normally the case in relation to a judicial review challenge to a decision of a court, tribunal, or similar body, the defendant, the PMC, has not appeared and is not represented in these proceedings. The interested party, the Director of Public Prosecutions, opposes the claim.
3. This claim was filed by the claimant on 6 February 2024. On 16 February 2024, the Administrative Court Office (ACO) invited the PMC to provide its views on the claim, which it did in a helpful 15-page response dated 18 February 2024 (“the Defendant’s Response”), which was prepared by the Judge. The Defendant’s Response makes clear that neither the PMC nor the Judge would be a party to these judicial review proceedings and that the Defendant’s Response was prepared in response to the ACO’s invitation in order to assist the court with relevant procedural information and factual background.
4. It is largely agreed between the parties that the factual background as set out in the Defendant’s Response is correct, subject to a couple of minor points, to which I will come in due course.
5. The claimant originally filed this claim acting as a litigant in person. He is represented at the hearing of this claim by Ms Khatija Hafesji, who is acting as *pro bono* counsel arranged through a charity known as Advocate. Mr Martyn Bowyer represents the interested party.

*Factual background*

6. The claimant, who is 46 years old, was charged with pursuing a course of conduct that amounted to harassment of a female complainant and that he knew or ought to have known that his conduct amounted to harassment, contrary to section 2(1) of the Protection from Harassment Act 1997. This is a summary offence for which the maximum penalty is six months’ imprisonment.
7. The particulars of the charge against the claimant were that, during the period between 14 February and 21 August 2022:
  - i) he sent flowers and hundreds of emails to the complainant, Ms Cydnie Evans, who at the relevant time was the landlady of the Three Tuns public house in Gosport; and
  - ii) he copied her into emails without reasonable excuse and against her wishes.
8. By a notice of charge dated 24 January 2023, the claimant was summoned to attend at Portsmouth Magistrates’ Court for a first hearing in relation to this charge on 23 February 2023. He did not appear, and a warrant was issued for his arrest.

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9. The next stage of the procedural history prior to September 2023 is set out in the Defendant's Response at paragraphs 19-24. It is not necessary for present purposes to set it out in this judgment in detail, but I note that the claimant at one point during this period had asked the PMC to transfer his case to Kent, where he was apparently facing another matter at the Medway Magistrates' Court. The Judge in the Defendant's Response is not entirely sure about the detail of the Kent proceedings, but, in any event, it is clear that in due course the claimant's trial before the PMC was listed for 22 September 2023.
10. On or about 13 September 2023, the claimant was released on bail (the Judge presumes that this was in relation to both the Portsmouth and Kent cases), having been previously remanded in custody for in excess of six months for the Portsmouth charge ("and also, presumably, in the Kent case").
11. At paragraphs 26-27 of the Defendant's Response, the Judge noted that there was correspondence between the PMC and the claimant's solicitors about the claimant's bail conditions, but that, at the time he was writing the Defendant's Response (18 February 2024), he did not have access to the history of the claimant's changing bail conditions in the case.
12. On 22 September 2023, the trial was listed but did not proceed. The complainant attended. The claimant attended but not in time for a morning hearing. He arrived at 12:48, stating that he had arrived late because his bail conditions had restricted his ability to travel by train from Kent. The trial was adjourned and re-fixed for 27 March 2024.
13. At a case management hearing at Portsmouth Magistrates' Court on 30 November 2023, the claimant's trial was brought forward from 27 March 2024 to 30 January 2024. That date was apparently chosen because the complainant was pregnant and would be unavailable for a trial in March 2024.
14. On 19 January 2024, the claimant's then solicitors, GT Stewart Solicitors, applied for an adjournment of the trial on the grounds that it had been announced on or around 15 January 2024 that there would be train strikes on 30 January 2024, that the claimant would be travelling from where he lived in Kent, and that he was not able to drive ("the Initial Adjournment Application"). The Initial Adjournment Application was opposed by the interested party.
15. On 23 January 2024, the court sent an email to the claimant's solicitors communicating the Judge's decision to refuse the Initial Adjournment Application and his reason for doing so. These are set out in the Defendant's Response at paragraph 34 as follows:

“ ... ‘The court recognises that the train strike presents a significant challenge for the defendant. It is a factor favouring adjournment. However there are also factors against adjourning to take into account and weigh in the balance. It has been over a year since the case was first heard. The trial date was selected because of the complainant's pregnancy and any adjournment would require many months of further delay. The trial has been set for some time and it has been known the defendant would need to make travel arrangements, potentially involving at least

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one overnight stay. The strike is on the trial day, not the day before or after. It is not explained why the defendant [can't] travel on the day before and the day afterwards and stay over. The court has previously been sent a copy of a contract suggesting he works and there are no details of why he couldn't stay over. There are disclosure issues but there is no reason to believe these will imperil the trial. On balance the interests of justice favour the trial proceedings as scheduled'."

16. On 25 January 2024 at 09:49, the claimant's solicitors sent an email to the PMC renewing the claimant's application for an adjournment on the basis that they had obtained further information relevant to the application and applying also for a remote hearing by video-link of the renewed application on an urgent basis ("the Renewed Adjournment Application"). The text of their email making the Renewed Adjournment Application is set out in paragraph 36 of the Defendant's Response.
17. The Judge noted at paragraph 37 of the Defendant's Response that he was on leave on 26 January and on the following Monday, 29 January 2024. Although he was on leave on the Friday morning, he checked his email and found an email sent at 09:42 to him by a member of the court staff at the PMC forwarding the claimants' then solicitors' email of 25 January at 09:49, which set out the Renewed Adjournment Application, together with the comments of the Crown Prosecution Service (CPS) on it. At 09:50, the Judge replied to this email explaining that he was on leave and asking the relevant member of the court staff to refer the Renewed Adjournment Application and related CPS comments to a duty legal adviser. For some unknown reason, this was never done.
18. On Friday, 26 January 2024 at 14:52, the claimant's solicitors emailed the PMC referring to their previous email and stating that since that time an issue had arisen which meant that they could no longer represent the claimant and confirming that he had been so informed. The claimant maintains, plausibly, that he was unable to obtain alternative legal representation in the short time prior to the date fixed for the trial. I have no information regarding the reasons why the claimant's solicitors withdrew. There is nothing before me to suggest that the claimant was at fault for their withdrawal at that late stage before the trial.
19. On Sunday, 28 January 2024 at 23:44, the claimant emailed the PMC complaining about the decisions to refuse the Initial Adjournment Application and the Renewed Adjournment Application (which, as I have noted, included an application for an urgent remote hearing by video-link) and claiming that the Judge "would not even allow a video link to prevent him attending", as it is put, somewhat opaquely, at paragraph 39 of the Defendant's Response. Paragraph 39 also states that the Judge believed that the claimant's statement to that effect was incorrect.
20. On the evidence before me, I cannot be sure about what, precisely, was said and to whom on this point (for example, by the claimants' solicitors to the claimant before they withdrew or by the PMC to the claimants' solicitors), but I accept that at this point the claimant believed that the Judge would not permit him to appear remotely, whether that was to argue the Renewed Adjournment Application or to attend his trial.

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21. On Monday morning, 29 January 2024, the claimant's email sent at 23:44 the prior night was referred to a duty legal adviser at 10:45. According to paragraph 39 of the Defendant's Response:
- “She responded that Mr Justice had not provided any new information and that he should be told the judge had made his decision that the trial should proceed on January; that the reasons had been sent to Mr Justice's solicitors; and that Mr Justice should be sent a copy as he was no longer represented.”
22. From context, this appears to be the duty legal adviser's internal response to other court staff at the PMC on the claimant's email of the night before. It also appears that the duty legal adviser was not aware of the Renewed Adjournment Application, as there is no reference to the new information that accompanied it or to the request for an urgent remote hearing by video-link. This internal response resulted in an email that was sent by court staff at the PMC to the claimant later that day at 12:35, the text of which is set out paragraph 54 of the Defendant's Response:
- “... ‘The District Judge has made his decision that the trial should proceed on 30 January and the details of the District Judge's reasons were sent to your solicitors on 23 January 2023 [*this is a typo; it should be 2024*]. As that was a judicial decision the court cannot comment further. If you require a copy of the email that was sent to your former solicitors with the reasons then this can be provided.’ ”
23. As I have already mentioned, the Defendant's Response acknowledged at paragraph 37 that court staff at the PMC had failed to comply with the Judge's direction on Friday morning, 26 January at 09:50 that the Renewed Adjournment Application and related CPS comments should be referred to the duty legal adviser. The Judge was not aware of this failure until the date of the trial.
24. On 29 January 2024, the claimant, acting as a litigant in person, filed a claim for judicial review of the PMC's decision on 23 January 2024 to refuse the Initial Adjournment Application, together with an application for urgent consideration. The claim was assigned the ACO reference AC-2024-LON-000281 (“the 000281 Claim”). The application for urgent consideration was refused by Hill J on 29 January 2024 on a review of the papers.
25. On 29 January 2024 at 16:10, the claimant emailed the PMC applying once again for an adjournment of his trial due to his not having legal representation and to stay all proceedings as an abuse of process due to disclosure failings by the CPS and the fact that his applications had been ignored by the PMC. He also stated that “I will not be attending as there is no trains.” The claimant maintains that he was told wrongly by the PMC on that day that he could not attend his trial remotely.

*Events of 30 January 2024*

26. The claimant's summary of events on 30 January 2024 is that at 10:23 he was sent via email a video-link to permit him to attend at Portsmouth Magistrates Court remotely. He had previously been told that this was not possible. He had no notice that he would

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be sent a video-link. He did not check his email on the morning of the trial, as he was not expecting to receive the video-link. He did not see the email with the video-link until late afternoon that day, by which time the Judge had decided that the trial should proceed in his absence. The trial then did proceed, and the claimant was convicted of harassment in his absence.

27. The PMC's version of events on 30 January 2024 is set out in some detail at paragraphs 42-56 of the Defendant's Response, including the reasons for the Decision, which are set out at paragraphs 46-51. The interested party's hearing bundle also includes at Tab 5 the hearing record sheet for the case prepared by the prosecutor, Ms Shan Parker, who took a note of what happened in court in relation to the claimant's case, including the Judge's *ex tempore* reasons for the Decision. I will deal separately below with the Judge's reasons for the Decision.
28. According to the Defendant's Response, the claimant's trial was listed at 10:00 before the Judge together with a number of other trials. By 10:00 the claimant had not attended, but the complainant had attended. The Judge noted that it appeared that no consideration or answer had been given by the PMC to the Renewed Adjournment Application (including the request for a remote hearing by video-link on an urgent basis).
29. The Judge noted at paragraph 42 of the Defendant's Response that:

“... Mr Justice had stated (incorrectly, the judge believed) that the judge would not even allow a video link to prevent him attending”.
30. The Judge ordered that the case should be put back until later in the day, and he then directed that (i) the claimant should be emailed and offered a video-link so that he could make his adjournment application and (ii) attempts should be made to telephone him. While these directions were carried out, the Judge proceeded to hear other cases in his list.
31. At 14:00 the claimant's case remained to be heard, and shortly thereafter it was called on. The Judge was informed that the claimant had still not attended, had not responded to the email of the offer of a video-link sent at 10:38, and could not be reached by telephone. The Judge then looked into the history of the case and the relevant correspondence to the extent practicable within the time available. The prosecutor, Ms Parker, told the Judge that the complainant, who was pregnant, had now attended trial twice and did not wish to attend a third time. She asked that the trial proceed in the claimant's absence.
32. The Judge then considered various issues relevant to the question of whether the claimant's trial should be adjourned or stayed as an abuse of process, including issues that had been raised by the claimant in relation to disclosure. He considered his powers and duties, including by reference to sections 10 and 11 of the Magistrates' Court Act 1980 and Part 5.4 of the Criminal Practice Directions 2023, set out the factors for and against an adjournment, the disclosure issues raised by the claimant, and whether the claimant's bail conditions could be said to have caused his attendance difficulties.
33. At 14:40, the Judge announced the Decision, and the trial commenced. The complainant gave evidence. There was some difficulty with the electronic bundle that had been

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prepared by the CPS, and so the Judge paused the trial for an hour so that a hard copy bundle could be prepared.

34. During that break, the PMC received at 16:32 an email from the claimant stating that he had not been given reasonable notice of the opportunity to attend via video-link. He also stated that his bail conditions did not permit him to use an internet device, which required someone to check his email for him and which had not happened. He had not received any phone calls from the court. He had been with family members, and he had been drinking. The Defendant's Response notes at paragraph 55 that the claimant "described the court's decisions/conduct as criminal perversions". The claimant's email had an attachment that could not be opened, but the Judge considered that it was likely to be the email sent by the PMC to the claimant on 12:35 on 29 January 2024, the text of which I have set out at [22] above.
35. The Judge considered the claimant's email. He noted, in summary, that the court's email to the claimant of 29 January 2024 had not stated that an application for a remote hearing by video-link had been refused, but he could see "with the exchanges of various emails" how it was possible that the claimant had reached that conclusion. He reviewed his reasons for making the Decision, and he decided that the Decision should stand. He directed that the trial would continue.
36. PC Vass was then called as a prosecution witness. The claimant's prepared statement was read to the court. The prosecution case closed.
37. The Judge gave a short judgment stating that he was satisfied with the truth and accuracy of the evidence of the complainant and of PC Vass. He found that the claimant's conduct was "bullying on a significant scale". He convicted him of the charge of harassment of the complainant.
38. The Judge noted that he could not proceed to sentence in the absence of the claimant. He issued an arrest warrant not backed for bail. The sentencing hearing was fixed for 15 February 2024.
39. On 15 February 2024, the claimant did not attend for sentencing. The judge still considered that he could not proceed to sentence in the claimant's absence and issued a further arrest warrant not backed for bail. As at the time of the Defendant's Response, prepared three days later, the Judge did not know if that warrant was still extant.

*The subsequent history of the 000281 Claim*

40. On 17 April 2024, Heather Williams J refused permission to apply for judicial review in relation to the 000281 Claim. The claimant renewed his application for permission to apply for judicial review in respect of the 000281 Claim, and a renewal hearing was fixed for 24 October 2024.
41. On 12 September 2024, the claimant filed a notice of discontinuance of the 000281 Claim. On 16 September 2024, the court notified the claimant of its acceptance of the notice of discontinuance, and the case was closed.

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42. On 2 February 2024, the claimant appealed his conviction to the Crown Court. The hearing of the appeal was fixed for 27 June 2025 at the Crown Court in Portsmouth.
43. On 6 February 2024, the claimant filed with the ACO:
  - i) a claim form dated 6 February 2024 setting out this claim to challenge the Decision, his conviction by the PMC, and related case management decisions; and
  - ii) a related application for urgent consideration dated 6 February 2024.He prepared each of these as a litigant in person.
44. On the same day, Thornton J dismissed the application for urgent consideration on the basis that the claimant's grounds for the claim did not appear to disclose an arguable public law error and there appeared to be an alternative remedy in the form of appeal against conviction to the Crown Court.
45. On 7 February 2024, the ACO issued this claim for service.
46. On 16 February 2024, the ACO requested the views of the PMC on the claim.
47. On 18 February 2024, the PMC provided the Defendant's Response.
48. On 26 September 2024, Sir Peter Lane, sitting in retirement as a High Court Judge, on a review of the papers, refused permission to apply for judicial review.
49. On 25 October 2024, the claimant filed a notice of renewal of his application to apply for judicial review.
50. At a hearing on 20 February 2025 at which the renewed application was due to be considered, but at which the claimant did not attend (for reasons noted below), Farbey J made an order:
  - i) refusing the claimant's application for the renewed application to be determined in his absence;
  - ii) giving case management directions for the adjourned hearing of the renewed application, to be fixed for the first available date after 31 March 2025 with a time estimate of 45 minutes, including for the filing and serving by the interested party of his acknowledgement of service and summary grounds of resistance as well as any reply by the claimant; and
  - iii) ordering a transcript of her *ex tempore* judgment giving her reasons for making the order to be produced at public expense.
51. The transcript of Farbey J's judgment was in the hearing bundle provided by the interested party for this hearing. Farbey J noted, among other things, that although the claimant had not attended the renewal hearing before her, he had come earlier that day to the Royal Courts of Justice where the hearing was due to take place, with medical

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evidence indicating that he was likely to have contracted a serious illness that was infectious. Farbey J had therefore told him that he should go home and join the hearing by video-link from his home and that she would put the hearing back to 15:30 to allow that to happen. By 13:40, however, the claimant had written to the court to say that his medical needs had to take priority over the hearing, which Farbey J accepted in light of the medical evidence she had seen. At that point, the claimant applied for the hearing to proceed in his absence, however Farbey J refused to do so, considering that it would not be fair to proceed as the claimant was ill and had no one to represent him in a claim that related to a criminal cause or matter. She considered that she did not have enough information to determine the renewed application fairly, which was why she was adjourning the renewed application and making appropriate case management directions.

52. On 9 April 2025, upon hearing the claimant's renewed application for permission to apply for judicial review, Cheema-Grubb J granted permission as follows:

“Permission to apply for Judicial review of the decision to proceed to trial on 30 January 2024 in the applicant's absence, when he had been told in error on 29 January 2024 that an application for remote attendance had been refused, is Granted.”

53. On 8 May 2025, the claimant sent a notice of abandonment of his appeal to the Crown Court at Portsmouth.
54. On 17 June 2025, the Crown Court confirmed that the claimant's appeal of his conviction by the PMC had formally been abandoned.

*Documents considered*

55. The claimant provided a hearing bundle comprising 16 tabs of documents (86 pages). The interested party provided a hearing bundle comprising 19 tabs of documents (147 pages). There was some overlap between the bundles. Between them, I had all of the documents relevant to this claim apart from the order made by Sir Peter Lane on 26 September 2024, which I was able to obtain from the court's case file. In addition, I had a helpful bundle of authorities, and skeleton arguments on behalf of each of the claimant and the interested party.

*The claim*

56. Section 3 of the claim form, which was prepared by the claimant without legal assistance, states that the claimant seeks by this claim to challenge five decisions, which are expressed in the claim form as follows:
- i) the decision that he was guilty;
  - ii) the decision not to allow a video link, when he was unable to attend due to a train strike, and then a video link having been sent 23 minutes after the hearing started with no prior notice to him that a link would be sent;
  - iii) the decision not to adjourn when no defence representation was in attendance;

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- iv) the decision to allow his solicitors to withdraw giving him only two days' notice; and
  - v) the decision not to allow pre-sentence reports.
57. Cheema-Grubb J granted permission to apply for judicial review of the Decision "when [the claimant] had been told in error on 29 January 2024 that an application for remote attendance had been refused". In my view, that additional language is explanatory of her grant of permission, highlighting an important factor, but it does not restrict this court to considering only that factor when assessing whether the Decision is flawed by a public law error.

*The Judge's reasons for the Decision*

58. As I have already noted, the Judge's reasons for the Decision are set out in the Defendant's Response at paragraphs 46-51. I have also had regard in preparing this summary of his reasons to Ms Parker's hearing record sheet, to which I have already referred. I have in the main, however, relied on the Defendant's Response, in which the Judge had the opportunity to perfect his reasons.
59. As my summary of the proceedings on 30 January indicates, the Judge made the Decision after the claimant's case was called on some time after 14:00, and he announced the Decision at 14:40, following which the Judge commenced the claimant's trial in his absence.
60. In relation to the Decision as announced at 14:40, the Judge's reasoning was as follows. He first considered the factors that were advanced by the claimant in support of his adjournment application as well as other factors that arguably favoured granting an adjournment. In summary, these were:
- i) claimant's travel difficulties due to the train strikes that day, his lack of an alternative means of transport, and his lack of funds to travel to Portsmouth a day early and to stay two nights there, travelling home on the day after the trial;
  - ii) the claimant's bail conditions;
  - iii) the fact that the court did not appear to have considered the Renewed Adjournment Application before the trial date;
  - iv) the withdrawal of the claimant's solicitors on 26 January (the Friday before the trial) and his inability to instruct new solicitors in time for the trial; and
  - v) the fact that the trial would be less thorough in the claimant's absence and the fact that the claimant would be unable to give his account or present his defence.
61. In relation to the bail conditions factor, the Judge did not check the claimant's then current bail conditions for the Portsmouth case, but he understood that they had been varied and did not prevent the claimant travelling to Portsmouth for his trial. Had there been such restrictions, the claimant could have applied to have them varied so that he could attend his trial, but he did not appear to have done so. It is clear that the Judge gave this factor no weight.

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62. The Judge then considered factors that weighed against granting the adjournment. In summary, these were:
- i) the fact that the claimant could have included more detail and evidence of the matters he relied on (save for the withdrawal of his solicitors) in the Initial Adjournment Application, which the court had refused;
  - ii) the claimant had been offered a video-link that morning at 10:38 in order to further his application to adjourn, and the claimant had not made himself available in the subsequent four hours;
  - iii) on the information before him then, it appeared to the Judge that this was the claimant's fourth non-attendance or late attendance in the case;
  - iv) the claimant had sent multiple and often confusing emails about the adjournment request;
  - v) the claimant had made an unfounded allegation that the reason he was without legal representation was "the ongoing harassment of the magistrates";
  - vi) the claimant's correspondence lacked clarity and reliability, the credibility of his assertions being weakened by the approach he had taken in correspondence;
  - vii) in relation to the claimant's reliance on his lack of funds as the reason that he could not travel to Portsmouth on the day before the trial and stay two nights, the claimant had had months to prepare for the trial, and it was unclear why he had not set funding aside for the trial or the funding could not somehow be realised;
  - viii) the claimant said that he had little notice of the trial, but the solicitors' adjournment application stated that he had been aware of the trial date since it was set in November 2023;
  - ix) as to the claimant's lack of legal representation, he had made no application for a transfer of legal aid and, having regard to Part 46 of the Criminal Procedure Rules 2020, there was no certainty that such an application would have been granted given that the solicitors who had just withdrawn were the second firm of solicitors for the claimant in the case;
  - x) an alternative trial date was not available before mid-July 2024, by which time the events complained of would be about two years' old;
  - xi) the complainant was pregnant, had attended for trial for a second time, and she did not wish to attend a third time;
  - xii) the offence was a significant one, but the claimant was not at risk of serving a custodial or otherwise punitive sentence if convicted as he had served at least six months on remand in custody for the offence;
  - xiii) if convicted at a trial in his absence, he would have a right to an appeal to the Crown Court that would amount to a retrial by way of a rehearing; and

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- xiv) any adjournment of the claimant's trial would incrementally delay future trials.
63. In relation to the claimant's adjournment application, the Judge was satisfied that the balance fell in favour of refusing it and proceeding with the claimant's trial in his absence and that it was in the interests of justice to do so.
64. The Judge noted that the claimant had also applied to stay the trial as an abuse of process on the basis that there had been disclosure failings by the CPS. The claimant had, however, not provided relevant particulars of any extant failings and had made no application under section 8 of the Criminal Procedure and Investigations Act 1996. The PMC could not locate a particularised stay application beyond the claimant's latest email on the Common Platform, but even if there were such a particularised stay application, the claimant had not attended to make it. The CPS asserted that it had complied with its disclosure obligations and details to the contrary were lacking. For these reasons, the Judge refused the claimant's application to stay the trial as an abuse of process.
65. After the PMC received the claimant's email at 16:32, the Judge reconsidered the Decision. According to the Defendant's Response at paragraph 56, the Judge noted the following:
- i) the PMC's email to the claimant on 29 January 2024 had not stated that his application for a remote hearing by video-link had been refused, although the Judge accepted that "with the exchanges of various emails it is possible to see how that conclusion could be reached";
  - ii) the Judge was not aware of any bail condition restrictions on the claimant's use of the internet and noted that he had been regularly emailing the court, but if it was true that his use of the internet was restricted by bail conditions, then it would not have been viable in any event for him to have made his application to adjourn by video-link on the day of trial;
  - iii) while the claimant had been unable to take the opportunity to make his adjournment application by video-link, it remained the case that:
    - a) he had been obliged to attend court and had not done so; and
    - b) the court was unpersuaded by the reliability and sufficiency of the reasons he had provided for not attending; and
  - iv) the claimant had had the opportunity to provide written information in support of his application to adjourn the case, the court had considered his applications to adjourn and had declined to do so.
66. In light of those considerations, the Judge's view remained that the claimant's adjournment and stay applications should be refused and that it was in the interests of justice for the trial to continue in his absence.

*Grounds*

67. As helpfully reformulated by Ms Hafesji, the claimant's grounds are that the Decision is flawed by one or more of the following three public law errors:

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- i) the Judge's conclusion that it was in the interests of justice to proceed with a trial where the accused, through no fault of his own, lacked legal representation was irrational;
- ii) the Judge erred as a matter of law in failing to consider and determine whether the claimant had an "acceptable reason" for non-attendance, appearing only to conclude (as per paragraph 51 of the Defendant's Response) that it would not be contrary to the interests of justice to proceed; and
- iii) in the alternative to (ii), if the court determines that the Judge did consider whether the claimant had an "acceptable reason" for non-attendance and concluded that he did not, the Judge's conclusion to that effect was irrational.

*Legal principles*

68. Section 10 of the Magistrates' Court Act 1980 ("the 1980 Act") confers on the Magistrates' Court a discretionary power to adjourn a trial and governs the exercise of that power in various circumstances.
69. Section 11 of the 1980 Act deals specifically with the circumstances in which a Magistrates' Court should proceed to a trial in the absence of the accused. It reads in relevant part as follows:

- "(1) Subject to the provisions of this Act, where at the time and place appointed for the trial or adjourned trial of an information the prosecutor appears but the accused does not –
- (a) if the accused is under 18 years of age, the court may proceed in his absence; and
  - (b) if the accused has attained the age of 18 years, the court shall proceed in his absence **unless it appears to the court to be contrary to the interests of justice to do so.**

This is subject to subsections (2), (2A), (3), (4) and (8).

...

- (2A) The court shall not proceed in the absence of the accused **if it considers that there is an acceptable reason for his failure to appear.**

...

- (6) Nothing in this section requires the court to enquire into the reasons for the accused's failure to appear before deciding whether to proceed in his absence.
- (7) The court shall state in open court its reasons for not proceeding under this section in the absence of an

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accused who has attained the age of 18 years; and the court shall cause those reasons to be entered in its register of proceedings.

... .” (emphasis added)

70. CrimPR 5.4 governs the procedural aspects of trial adjournment in the Magistrates' Court. CrimPR rule 5.4.4 cross-refers to section 10 of the 1980 Act, noting that the High Court will only interfere with a decision on adjournment if there are compelling reasons to do so. CrimPR rules 5.4.7-5.4.10 deal with applications to vacate trials. CrimPR rule 5.4.10, in particular, sets out a number of matters that the court must have regard to in determining such an application.
71. CrimPR rules 5.4.11-5.4.12 are relevant where the reason for which adjournment is sought relates to the absence of a defendant over the age of 18. CrimPR rule 5.4.12(a)-(c) sets out the substance of section 11 of the 1980 Act relevant to a defendant over the age of 18. CrimPR rule 5.4.12(d) sets out a non-exclusive (“the court will take into account all factors, including ...”) list of the factors that the court will take into account in deciding whether to proceed in the absence of the defendant. CrimPR 5.4.12(e), which deals with absence on medical grounds, does not apply in this case.
72. The principles to be applied by a criminal court when deciding whether to proceed in the absence of a defendant were set out by the Court of Appeal in the case of *Hayward* [2001] EWCA Crim 168, [2001] QB 862 (CA) at [22]. In that case, the Court of Appeal considered three separate cases involving a conviction after a trial in the Crown Court of a defendant in his absence.
73. The cases before the Court of Appeal in *Hayward* were an appeal against conviction by John Hayward, an appeal against conviction by Anthony Jones, and an application for leave to appeal against conviction by Paul Purvis. The three cases were considered together so that the Court of Appeal could provide guidance on the principles that determine whether, and if so in what circumstances, a criminal trial can properly take place in the absence of the defendant.
74. In *Hayward*, Rose LJ, who handed down the judgment of the court, after having reviewed the relevant authorities, at [22] distilled the relevant principles. At [22(5)], Rose LJ set out a non-exhaustive list of 11 circumstances that should be considered by a judge deciding whether a trial should take place or continue in the absence of a defendant and/or his legal representatives.
75. Hayward's appeal against conviction succeeded. Jones's appeal against conviction was dismissed, as was Purvis's application for leave to appeal against conviction. Jones then appealed to the House of Lords.
76. In *Jones* [2002] UKHL 5, [2003] 1 AC 1 (HL) at [13]-[14] (Lord Bingham of Cornhill), the House of Lords endorsed the principles set out in *Hayward* at [22], except in relation to sub-paragraph (viii) of [22(5)] where the Court of Appeal had included, as a relevant circumstance, “the seriousness of the offence, which affects defendant, victim and public”. Lord Bingham commented in *Jones (HL)* at [14] that:

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“... The judge’s overriding concern will be to ensure that the trial, if conducted in the absence of the defendant, will be as fair as circumstances permit and lead to a just outcome. These objects are equally important, whether the offence charged be serious or relatively minor.”

77. The principles set out in *Hayward* at [22], as approved by the House of Lords in *Jones (HL)* at [13]-[14] and as relevant to this case, are as follows:

“... ”

- (1) A defendant has, in general, a right to be present at his trial and a right to be legally represented.
- (2) Those rights can be waived, separately or together, wholly or in part, by the defendant himself. They may be wholly waived if, knowing, or having the means of knowledge as to, when and where his trial is to take place, he deliberately and voluntarily absents himself and/or withdraws instructions from those representing him. They may be waived in part if, being present and represented at the outset, the defendant, during the course of the trial, behaves in such a way as to obstruct the proper course of the proceedings and/or withdraws his instructions from those representing him.
- (3) The trial judge has a discretion as to whether a trial should take place or continue in the absence of a defendant and/or his legal representatives.
- (4) That discretion must be exercised with great care and it is only in rare and exceptional cases that it should be exercised in favour of a trial taking place or continuing, particularly if the defendant is unrepresented.
- (5) In exercising that discretion, fairness to the defence is of prime importance but fairness to the prosecution must also be taken into account. The judge must have regard to all the circumstances of the case including, in particular:
  - (i) the nature and circumstances of the defendant's behaviour in absenting himself from the trial or disrupting it, as the case may be and, in particular, whether his behaviour was deliberate, voluntary and such as plainly waived his right to appear;
  - (ii) whether an adjournment might result in the defendant being caught or attending voluntarily and/or not disrupting the proceedings;

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- (iii) the likely length of such an adjournment;
- (iv) whether the defendant, though absent, is, or wishes to be, legally represented at the trial or has, by his conduct, waived his right to representation;
- ...
- (vi) the extent of the disadvantage to the defendant in not being able to give his account of events, having regard to the nature of the evidence against him;
- ...
- (ix) the general public interest and the particular interest of victims and witnesses that a trial should take place within a reasonable time of the events to which it relates;
- (x) the effect of delay on the memories of witnesses;

...

- (6) If the judge decides that a trial should take place or continue in the absence of an unrepresented defendant, he must ensure that the trial is as fair as the circumstances permit. He must, in particular, take reasonable steps, both during the giving of evidence and in the summing up, to expose weaknesses in the prosecution case and to make such points on behalf of the defendant as the evidence permits. In summing up he must warn the jury that absence is not an admission of guilt and adds nothing to the prosecution case.”

78. In *Evans v East Lancashire Magistrates' Court* [2010] EWHC 2108 (Admin), the Divisional Court considered a claim for judicial review by a claimant, Ms Evans, who had been convicted in her absence by the East Lancashire Magistrates' Court after she had sought, through her solicitor, an adjournment of the trial on the grounds of medical incapacity. In *Evans* at [33], Munby LJ, giving the judgment of the Divisional Court, made clear that the principles in *Hayward* at [22] as approved by the House of Lords in *Jones (HL)* at [13]-[14] (“the *Jones* principles”) apply equally to criminal trials in the Magistrates' Court.

79. In *Evans* at [39], Munby LJ found that among four fundamental errors made by the magistrates in that case (of which, only one is relevant to this case), they made the error of treating section 11(1)(b) of the 1980 Act as creating a “statutory presumption” that the Magistrates' Court should proceed in the absence of a defendant who has attained the age of 18. Munby LJ said:

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“... That in my judgment involves a misreading of section 11. Even if section 11(1)(b) can be read as indicating a starting point, namely that the court shall proceed in the defendant's absence unless it appears that the court considers it is contrary to the interests of justice to do so, that is, as my Lord pointed out during the course of argument, made explicitly subject to the provisions of subsection 2A, which as we have seen provides, and provides in unqualified and mandatory terms, that the court shall not proceed in the absence of the accused if it considers that there is an acceptable reason for his failure to appear. Unhappily, the magistrates seem not to have addressed themselves to the precise terms of section 11 and seem to have fallen in consequence into error in identifying a statutory presumption which is not to be found in the statute.”

80. *R (Rathor) v Southampton Magistrates' Court* [2018] EWHC 3278 (Admin) is another case involving the conviction of a defendant after a criminal trial conducted in his absence in the Magistrates' Court. In *Rathor* at [8], it is clear that Andrews J (as she then was) considered that it was necessary for the Magistrates' Court to comply with the *Jones* principles in order to ensure that it approached the question of proceeding in the absence of the defendant “in the way it was obliged to under Section 11”.

*Submissions*

81. For the claimant, Ms Hafesji submitted that the Judge was wrong to conclude that it was in the interests of justice for his trial to proceed in his absence without the benefit of legal representation, in circumstances where, as the Judge acknowledged in the Defendant's Response at paragraph 46, his ability to participate in the trial and defend himself would be seriously compromised and the passage of time was unlikely to prejudice the interests of other parties at any future trial, as the case turned largely on documentary evidence. While delay to the proceedings was, in itself, inherently harmful to the interests of justice, there were no specific factors in this case that could rationally outweigh the very real prejudice to the claimant's ability to have a fair trial by proceeding in his absence.
82. Ms Hafesji submitted that it appeared that the Judge had focused only on the “interests of justice” test and had not properly considered whether the claimant had an “acceptable reason” for non-attendance, as he was required to do under section 11(2A) of the 1980 Act. If that was wrong, however, then his conclusion that the claimant did not have an acceptable reason was irrational, given that the following factors, all of which were beyond his control, prevented his attending either in person or remotely:
- i) the train strikes meant that he did not have any means of transportation to attend the trial on 30 January 2024;
  - ii) he lacked the funds to procure overnight accommodation for two nights in Portsmouth so that he could travel to Portsmouth on the day before the train strikes in order to attend his trial on 30 January and travel home on the following day;

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- iii) he lacked legal representation, his solicitors having withdrawn on the Friday before the trial leaving insufficient time for him to find alternative legal representation; and
  - iv) he had been told by the PMC that it would not be granting his request for a remote hearing by video-link to determine the adjournment application, with no suggestion that remote attendance at the trial was possible.
83. For the interested party, Mr Bowyer's primary submission was that there was no public law remedy currently available to the claimant given that he has alternative remedies to judicial review that he has neither exercised nor exhausted, namely:
- i) he could make an application to the PMC under section 142(2) of the 1980 Act to set aside the conviction in the interests of justice;
  - ii) he could appeal his conviction to the Crown Court under section 108 of the 1980 Act (having initiated an appeal and then having abandoned it, this remained an available alternative remedy, subject to his need to apply for an extension of time); and
  - iii) he could make an application to the PMC to state a case for the opinion of the High Court on whether the PMC should have proceeded to trial in his absence.
84. Mr Bowyer submitted that if judicial review is an available remedy, then the decision of the Judge to proceed in the absence of the claimant was both reasonable and fair. He noted that CrimPR rule 24.12(3) states that where the defendant is absent, the general rule is that the court must proceed as if the defendant were present and had pleaded not guilty (unless a plea has already been taken), subject to the conditions at subparagraph (b) of that rule, which are clearly satisfied in this case.
85. Mr Bowyer submitted that, having regard to the Defendant's Response, it is clear that the Judge appropriately directed himself in relation to section 11 of the 1980 Act and the relevant provisions of the Criminal Practice Directions 2023, in particular paragraphs 5.4.11 and 5.4.12. Although the Judge did not refer to the *Jones* principles in the Defendant's Response, and Ms Parker's hearing record sheet appears to confirm that the case of *Jones (HL)* was not brought to his attention by Ms Parker or by the legal advisor, Mr Bowyer submitted that it could be safely inferred that the Judge, who is an experienced criminal district judge, would be familiar with such a well-known and established authority.
86. Mr Bowyer submitted that the Judge identified the relevant factors for and against the Decision and reached a conclusion that was neither unreasonable nor unlawful. It was a conclusion that fell within the range of reasonable responses to the relevant facts by a district judge.
87. Mr Bowyer also submitted that when the claimant emailed the PMC at 16:32 on 30 January 2024, after the Decision had been made and the trial had been proceeding in the claimant's absence, the Judge reasonably and properly reviewed the Decision. He reached the conclusion that it should stand, which was, for the reasons he gave, a conclusion within the range of reasonable responses to the relevant facts by a district judge.

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88. Although she did not deal with the interested party's primary submission in her skeleton argument, Ms Hafesji addressed it in her oral submissions. She relied on the Supreme Court case of *Re McAleenon* [2024] UKSC 31, [2025] AC 1362 (SC(NI)) at [50]-[64] (Lord Sales and Lord Stephens JJSC) for the proposition that when a court invited to conduct a judicial review of a decision of a public body is considering whether the claimant has an adequate alternative remedy, it is necessary for the court to look closely at the claimant's objective and the relief the claimant is seeking.
89. In *Re McAleenon*, the Supreme Court held that the Court of Appeal of Northern Ireland had erred in finding that the claimant had adequate alternative remedies because it had failed properly to assess the claimant's objective, which was to ensure that the defendant regulators in that case did their job properly and brought their resources (more extensive than her own) to bear on the problem she was facing, namely, unpleasant odours coming from a waste disposal site near to her home. Neither a prosecution under section 70 of the Clean Neighbourhoods and Environment Act (Northern Ireland) 2011 nor a common law nuisance claim were capable of addressing her complaint that the defendant regulators were failing to comply with their public law duties or capable of giving her a remedy in relation to that complaint as thus formulated. Similarly, the making of a complaint about the defendant regulators to the Northern Ireland Public Services Ombudsman was not an adequate alternative remedy for the claimant.
90. Ms Hafesji submitted that the claimant's objective was to have a fair trial before the Magistrates' Court. The Decision deprived him of his first opportunity of an acquittal. An appeal to the Crown Court is not a suitable alternative remedy, given the claimant's objective. Similarly, an application to the PMC under section 142 of the 1980 Act is not a suitable alternative remedy. It confers a power on the PMC that the PMC could, in any event, have exercised of its own initiative. It had not done so, and there was no reason to consider that it would do so upon an application by the claimant.
91. In response to these submissions, Mr Bowyer referred to *Re McAleenon* at [51]:
- “When Parliament has enacted a statutory scheme for appeals in respect of certain decision, an appeal will in ordinary circumstances be regarded as a suitable alternative remedy in relation to such decision which ought to be pursued rather than having to resort to judicial review ... Otherwise, use of judicial review would undermine the regime for challenging decisions which Parliament considers to be appropriate in that class of case.”
92. Mr Bowyer submitted, that in contrast to the position of the claimant/appellant in *Re McAleenon*, this was a case where there is a statutory scheme for appeals, namely, the right to appeal to the Crown Court under section 108 of the 1980 Act. In addition, it was open to the claimant to make an application for set-aside of his conviction under section 142 of the 1980 Act or for the claimant to state a case for the High Court on a point of law in relation to the Decision. He chose to exercise his right to appeal to the Crown Court and then abandoned the appeal. Accordingly, it remained the interested party's primary submission that the Administrative Court is not the correct forum to achieve the remedy sought by the claimant.

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93. I am grateful to both Ms Hafesji and Mr Bowyer for their clear and succinct written and oral submissions.

*Discussion and decision*

94. Dealing first with the question of whether there is an adequate alternative remedy, I note that the refusal by this court of a claim for judicial review on the basis that there is one or more adequate alternative remedies is an exercise of discretion that must be undertaken with a careful regard to the relevant facts, which include the procedural history of the claim. In this case, the claimant, who at that stage was acting as a litigant in person, only abandoned his appeal to the Crown Court after permission to apply for judicial review had been granted by Cheema-Grubb J. Especially in light of his limited resources and the fact that he was representing himself, it is entirely understandable that he should have decided to focus his resources on pursuing this claim.
95. While it is perfectly fair for the interested party to raise the argument that there are adequate alternative remedies, it would be entirely understandable for the claimant to feel aggrieved if his claim was stopped now on that basis when permission to apply for judicial review had been granted by a judge of this court and, in reliance on that, he had abandoned his Crown Court appeal. Although this is not determinative, I consider that I am entitled to take this history into account in deciding whether to exercise my discretion to refuse the claim on the basis that there are adequate alternative remedies.
96. I am also attracted by Ms Hafesji's submission that the Crown Court appeal is not, for this claimant, an adequate alternative remedy because his objective is to have a fair trial in the Magistrates' Court. That, in my view, is not an argument that can be routinely relied on by a claimant seeking to contest his or her conviction in the Magistrates' Court for the reasons given by the Supreme Court in *Re McAleenon* at [51]. But, in the specific circumstances of this case, it seems to me fair and appropriate to exercise my discretion to accept the claim, given that permission has been granted on a renewed application, and to deal with it on its merits.
97. As for the alternative remedy of an application by the claimant to the PMC under section 142 of the 1980 Act, the same factors are relevant. That is certainly a course he could have taken, but we are where we are. He now has permission to bring this claim. The claim has been fully argued before me not only the threshold ground of adequate alternative remedy but also on the merits. As will be seen, I do find that the merits favour the claimant. That is another reason to exercise my discretion in favour of accepting the claim and dealing with it on the merits. The same applies to the alternative remedy of an application by the claimant to the PMC to state a case for this court. The case is now before the court, it has been fully argued, and I am in a position to deal with it.
98. Accordingly, I turn to the merits. I want to make it clear that nothing I say is intended to be critical of the Judge, who approached matters carefully despite clearly dealing with a busy list and who was probably not helped by counsel or the legal advisor to the extent that he could have been. Moreover, the claimant had not helped matters in the run-up to the Decision by the way he conducted correspondence with the court and, in particular, by making insulting and unfair accusations against judges and court staff who were attempting to deal as fairly and conscientiously as possible with all matters before them, including the case against the claimant. The Judge deals with some of this

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at paragraphs 11 to 16 of the Defendant's Response, and I have read much of the relevant correspondence myself. The claimant has done himself no favours in this matter by the way he has conducted himself.

99. The unfortunate background that I have described above at [17]-[23] above means that to some extent the fault of poor communication prior to the trial lies on the side of the PMC, with its failure to have dealt with the Renewed Adjournment Application. It also means that the Judge was not as well-informed as he could have been about all the relevant circumstances at the time of the trial.
100. As I noted when summarising the submissions, the Judge in setting out his reasons for the Decision did not mention the *Jones* principles. It appears from Ms Parker's hearing record sheet that the judge did not mention the *Jones* principles when giving his *ex tempore* reasons, and neither she nor the legal advisor drew the Judge's attention to the case of *Jones (HL)*.
101. Although I am sure that the Judge is well-acquainted with the *Jones* principles, it is always advisable for a judge, when dealing with an application as important and sensitive as whether to proceed in the absence of a defendant, to remind herself or himself expressly of the principles and, in particular, of the guidance given by Lord Bingham in *Jones (HL)* at [22(3)-(4)] that the trial judge's discretion to conduct or continue a trial in the absence of a defendant and/or his legal representatives:
- “... must be exercised with great care and it is only in rare and exceptional cases that it should be exercised in favour of a trial taking place or continuing, particularly if the defendant is unrepresented.”
102. It may be the case that the Judge considered that by having regard to section 11 of the 1980 Act and CrimPR rules 5.4.11-5.4.12, and, in particular, the list of factors at rule 5.4.12(d), he could be confident that this would be sufficient to ensure compliance with the *Jones* principles. It seems to me, however, that that is not necessarily the case. For example, the list of relevant circumstances set out in *Jones (HL)* at [22(5)] is not fully reflected in the relevant provisions of CrimPR 5.4, in particular in rule 5.4.12(d). Rule 5.4.12(d) does not, for example, draw the court's attention to the following circumstances that were highlighted by Lord Bingham in *Jones (HL)* at [22(5)]:
- “(ii) whether an adjournment might result in the defendant being caught or attending voluntarily and/or not disrupting the proceedings;
  - (iii) the likely length of such an adjournment;
  - (iv) whether the defendant, though absent, is, or wishes to be, legally represented at the trial or has, by his conduct, waived his right to representation;

...

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- (vi) the extent of the disadvantage to the defendant in not being able to give his account of events, having regard to the nature of the evidence against him;”
103. The Judge does not appear to have had regard to whether an adjournment would result in the claimant attending voluntarily. Although there had been some issues regarding non-attendance and late attendance, for various reasons, the evidence strongly suggested that the claimant was willing to attend and would attend, but for the train strikes, and would have attended remotely had he been given advance notice of the possibility of doing so (whether he was only permitted to advance his adjournment application remotely or permitted to participate in his trial remotely).
104. The Judge did consider the likely length of an adjournment (see [62(x)] above). The Judge acknowledged that the claimant appeared to want to be legally represented at his trial, but, beyond that acknowledgement, he did not appear to give this factor any weight. It may be that the Judge drew an adverse inference against the claimant from his difficult conduct during the proceedings and in correspondence and from the fact that the solicitors who had just withdrawn were the second firm to do so. In other words, the Judge may have treated this factor as being of diminished weight because it was somehow the fault of the claimant, although there was no direct evidence to that effect (beyond the bare fact of the withdrawal of the second set of solicitors). The Judge did not seem to consider or explicitly to rule on whether the claimant by his conduct had waived his right to legal representation. He merely referred to the fact that the claimant would be at a disadvantage by virtue of being unrepresented.
105. Finally, in relation to the *Jones* principles, although the Judge acknowledged, as a factor in favour of adjournment, the disadvantage to the claimant of not being able to give his account of events should the trial proceed in his absence, he did not appear to have given any consideration to the “extent of the disadvantage” as required by the *Jones* principles.
106. Although I do not necessarily agree with Ms Hafesji’s submission that the Judge made the mistake identified by the Divisional Court in *Evans* of treating section 11(1)(b) as creating a “statutory presumption” that, in relation to a defendant over the age of 18, the Magistrates’ Court should proceed in the absence of the defendant if it is in the interests of justice to do so, it does appear that he focused principally on section 11(1)(b) and did not give sufficient consideration to section 11(2A).
107. The Judge’s general approach, if I may say so, appeared to be not unlike the orthodox “balance sheet” approach to deciding an objection to extradition under Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), as per *Poland v Celinski* [2015] EWHC 1274 (Admin), [2016] 1 WLR 551 (DC) at [15]-[17]. The danger of approaching the question of whether to proceed with a trial in the absence of a defendant in this way is the risk of falling into the error identified by the Divisional Court in *Evans*.
108. Leaving aside the abuse of process application, it appears to me that the Judge identified five factors that favoured granting the adjournment and 14 factors that weighed against adjournment, as I have set them at [60] and [62] above.

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109. The Judge will, of course, not have viewed this simply as a “numbers game”. But the risk of his approach was that he would be too focused on section 1(1)(b) of the 1980 Act to the detriment of a proper consideration of section 1(2A) of the 1980 Act and of the *Jones* principles.
110. Turning to the Judge’s reasoning in support of the Decision, I make the following observations.
111. First, I have already noted that the Judge gave no weight to the bail conditions point made by the claimant in support of his adjournment application. It appears on the information before him, and for the reasons he gave, that he was right to give that factor no weight.
112. Secondly, the Judge found there to be no substance in the claimant’s arguments in support of his abuse of process application. Again, it appears on the information before him, and for the reasons he gave, that his conclusion on that aspect of the case was correct.
113. Thirdly, in relation to the claimant’s travel difficulties due to the train strikes, the Judge stated that the claimant could have included more detail and evidence of the matters he relied on in support of his Initial Adjournment Application, although it is not clear whether the fault, if there was one, for the lack of supporting detail was that of the claimant or his then solicitors.
114. As we have already seen, there was more detail (if not evidence) in the Renewed Adjournment Application, which was never properly dealt with by the PMC before the trial. Presumably, the purpose of seeking an urgent remote hearing by video-link of the Renewed Adjournment Application had been so that the claimant’s then solicitors could more effectively put the case for the adjournment on the basis of the new information they claimed to have and to deal with any questions that the court had.
115. As I have already indicated, given the history of this matter, and in particular the PMC’s failure to deal with the Renewed Adjournment Application, it is not surprising that the claimant reached the conclusion after his solicitors withdrew that he was not permitted to attend at the PMC via video-link, either to pursue his adjournment application or to participate in his trial. It was not fair, therefore, to hold against him that he did not see the video-link on the morning of 30 January, given that there was no reason for him to expect to be sent it.
116. The fact that the claimant had been aware of the trial date since November 2023 and the fact that he had had “months to prepare” for the trial were not of relevance to the question of his travel difficulties, which only arose when the train strikes were announced shortly before his trial, leading to the Initial Adjournment Application.
117. There was no evidence that the claimant did have alternative means of transport available or that he had the necessary funding to travel to Portsmouth on the day before the trial and to stay two nights. Given that the key question for the Judge in relation to whether the trial should proceed in the claimant’s absence was whether the claimant, by not attending on 30 January, was voluntarily waiving his right to attend his own trial, it seems to me that the Judge should not have held these matters against the claimant to the extent that he did.

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118. Fourthly, it is clear that the claimant wished to be legally represented at this trial. The Judge should have given this factor greater weight. It is, indeed, one of the most important considerations, having regard to the *Jones* principles. There was no evidence before the Judge (whatever his suspicions might have been based on the claimant's general conduct during the proceedings) that the claimant was at fault in some way for the withdrawal of his solicitors so shortly before the trial. The fact, therefore, that the claimant had not made an application for a transfer of legal aid during the short period between the withdrawal and the trial date was not something that should have been held against him.
119. Overall, having carefully considered the reasons set out by the Judge in the Defendant's Response for making the Decision, I conclude that the Decision was flawed by public law error.
120. I agree with Ms Hafesji's submission that the Judge was wrong to conclude that it was in the interests of justice for the claimant's trial to proceed in his absence without the benefit of legal representation in circumstances where his ability to attend and participate in his trial had been seriously compromised by the train strikes, his lack of alternative transport, and his financial condition, particularly given that he wished to participate, he wished to be legally represented, and an adjournment was not likely to prejudice the interests of other parties, as the case turned largely on documentary evidence.
121. The Judge correctly identified that there was a potential difficulty with the complainant and her unwillingness to attend a third time, but neither that nor any of the other factors identified by the Judge as weighing against adjournment could, singly or collectively, rationally outweigh the very real prejudice to the claimant's ability to have a fair trial by proceeding in his absence in these circumstances.
122. Contrary to Ms Hafesji's submission, I consider that the Judge did have regard to section 11(2A) of the 1980 Act in that he did consider whether there was an acceptable reason for the claimant's failure to appear. However, I agree with her submission in the alternative that, having considered the question, the conclusion that he reached on the point, taking into account all the circumstances, was irrational in the public law sense for the reasons given by Ms Hafesji, which I have summarised at [82] above. The Judge did not give adequate reasons for his finding that the claimant did not have an acceptable reason for failing to attend his trial.
123. Accordingly, I conclude that the Decision was flawed by public law error in the ways that I have indicated and, in consequence, that this court must quash it and order that the matter be remitted to the PMC to be considered by a differently constituted court, which may, for practical reasons, necessitate the claimant's trial being heard by a Magistrates' Court in a different location.