

Court refuses group litigation order in student group COVID claims

23 July 2024  Chloe Poskitt

At a case management conference last month, the High Court refused the claimants' application for a group litigation order (GLO). The claims were made by current and former students against University College London (UCL) and concerned an alleged breach of contract arising from in-person tuition being disrupted due to COVID-19 and strikes.

A GLO is a case management procedure where multiple claims sharing common issues can be dealt with as one single claim. The claimants (being approximately 924 named students) tried to group together the claims by applying for a GLO.

The claimants argued that a GLO would effectively manage the claims in terms of being an effective means of resolving common issues whilst still enabling individual issues to be determined.

"...a fair and proportionate resolution"

UCL opposed the application on the grounds that the court's case management abilities were sufficiently broad to achieve a fair and proportionate resolution of the claims through test cases.

The court found that the Claimants had met the requirements for a GLO. However, the application was refused as "*the litigation would be best resolved by the creative use of the court's existing case management powers*". The High Court Judge, Senior Master Cook, did not believe that a GLO would help to "*promote fairness, save costs or allow the claims to be dealt with in a timely and efficient manner*".

The Judge accepted that decisions on test cases regarding common contractual terms would bind other claimants in the consolidated actions due to precedent and res judicata.

The Judge's decision was also influenced by the fact that, despite years of advertising, only a small percentage of eligible UCL students and former students had joined the group action.

An immediate cut off

The court ordered an immediate cut off on any future claims arising from the same facts and issues that are not already a part of this litigation. These claims, if filed, will therefore be stayed until a judgment is issued in this current litigation.

The claimants have also been ordered to provide information about each of the claims, including details of the amount of compensation being claimed and the country of residence of students during the pandemic.

If not settled before, the trial is likely to take place in early 2026 and only time will tell in terms of how the court approaches force majeure in student contracts.

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