

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

Royal Courts of Justice
Strand, London, WC2A 2LL

Before :

THE HONOURABLE MR JUSTICE SAINI

Between :

THE KING
on the application of
(1) NATIONAL ASSOCIATION OF HEAD
TEACHERS
(2) BARBARA MIDDLETON

Claimants

- and -

(1) OFFICE FOR STANDARDS IN
EDUCATION, CHILDREN'S SERVICES
AND SKILLS (OFSTED)
(2) HIS MAJESTY'S CHIEF INSPECTOR OF
EDUCATION, CHILDREN'S SERVICES
AND SKILLS

Defendants

DECISION ON PERMISSION AND INTERIM RELIEF

1. This is a case about the new regime to be implemented by the First Defendant, Ofsted, next week (on 10 November 2025) for assessing schools following inspections. As is well-known, Ofsted used to grade schools as being *Outstanding*, *Good*, *Requires Improvement* or *Inadequate*. These so-called "one word" assessments were controversial. The circumstances surrounding the tragic death of the headteacher Ruth Perry following an inspection of her school, and the Coroner's report into her death, prompted a review of Ofsted's approach to reporting and inspection. That process has come to an end following a major national consultation.
2. From 10 November 2025, Ofsted proposes to introduce a new education inspection "report card" grading system in the form of a 5-point scale. Ofsted's reports will also include a narrative. The Claimants do not like the 5-point scale and make strong objections to it on well-being grounds. The First Claimant is the largest trade union for headteachers and school leaders, and the Second Claimant is a headteacher at a primary school. They would prefer what they call a pure "narrative-only" approach as opposed to any form of grading. That is the system adopted in Northern Ireland and Wales. They seek permission to challenge by way of judicial review certain decisions said to underlie

Ofsted's adoption of the new framework. The Claimants advance 6 grounds of judicial review which they argue establish the unlawfulness in public law of the decisions culminating in this framework. These grounds have substantial overlaps but at the core of the Claimants' challenge is what they say was a failure by Ofsted to conduct a legally sufficient consultation in relation to the decision or to give any adequate consideration to the serious negative effects that the new framework, if implemented, will have on the well-being and mental health of school leaders and teachers. In addition to seeking judicial review, they have applied for an interim injunction this morning preventing Ofsted from introducing the new grading system next week.

3. I thank Counsel and their teams for the excellent oral and written submissions. Having reflected on these submissions I propose to refuse permission to apply for judicial review and had the issue arisen I would have refused an interim injunction. I will explain in outline why I have reached these conclusions. Given that the Claimants may wish to take this matter to the Court of Appeal, I will do my best to provide a draft judgment for editorial corrections tomorrow with, I hope, an approved judgment being handed down by close of business on Wednesday. That will be available from my clerk.
4. In summary, although this claim wears the clothes of a procedural challenge to a consultation process, in substance NAHT's real complaint is about the policy design decision made by Ofsted to the effect that some form of grading is necessary. That is a matter of high educational policy and the Claimants' case is built on a wholesale opposition to any form of grading. The evidence satisfies me that Ofsted's conclusions, that a grading plus narrative approach best balances the different interests at play, was reached after a detailed consultation conducted in a procedurally lawful way and after a careful assessment of the various views expressed to it, including consideration of well-being issues. In particular, sight must not be lost of the fact that strong voices, including from the parent and carers community, preferred some form of grading or scaling system in the form ultimately adopted, as opposed to the pure narrative approach which the Claimants favour. As Ofsted said in the Consultation Report, the new framework with its grading system has the "overwhelming backing" of the parent community, while recognising substantial opposition from the teacher and headteacher unions. While all agreed a new framework for inspection and reporting was necessary, there was no single solution favoured by interested parties. The power of choice lay with Ofsted and His Majesty's Chief Inspector. They were best placed to balance the need for some form of graded assessment with the potential for such evaluations to have negative well-being impacts on teachers and leaders.
5. Ultimately, the merits of Ofsted's report card grading system with accompanying narrative, including its approach to the well-being issues raised, are not matters for this court. A judicial review court must ensure a public body acts in accordance with the standards of procedural fairness the law requires, including not predetermining the outcome before consultation, and making due inquiry to equip itself with evidence. In my judgment, there was no arguable error on these matters. I return to the point that the true complaint in this case concerns matters of policy choice and system design. The merits of that policy are a matter of political accountability. Ofsted's considered view is that the old and discredited 2019 Framework should be revoked in favour of the renewed framework, which it says has been substantially improved as regards both well-being and the methodology for inspecting schools more generally. It is for Ofsted to decide how to conduct its inspections in the way which, in its expert judgment, is

most effective, while taking account of the risk to the well-being of teaching staff and leaders. The evidence does not persuade me that its approach to these risks involved any arguable public law error.

6. Had I been satisfied there was any arguable error by Ofsted, the balance of convenience including public interest considerations would have come down substantially in favour of refusing an injunction seeking to restrain the implementation of the new inspection and reporting system next week.
7. As I have said, I would hope to provide my full reasons in a judgment to be provided the next few days. A written version of the brief reasons I have just delivered can be obtained from my clerk.

Mr Justice Saini
Monday 3 November 2025