Neutral Citation Number: [2026] EWHC 523 (Admin)

Case No: AC-2026-LON-000921

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

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 11/03/2026

Before:

MRS JUSTICE HILL DBE

- -

Between:

JAYDEN GAMBRAH **Claimant**

- and –

THE DIRECTOR OF HMP THAMESIDE **Defendant**

- -
- -

Alex Ryle (counsel instructed by **Faradays Solicitors**) for the **Claimant**
Andrew Holland (counsel-solicitor advocate instructed by **Serco**) for the **Defendant**

Hearing dates: 25 February 2026, 26 February 2026 and 6 March 2026

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Approved Judgment

This judgment was handed down remotely at 10.30am on Wednesday 11 March 2026 by circulation to the parties or their representatives by e-mail and by release to the National Archives.

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MRS JUSTICE HILL DBE

Mrs Justice Hill:

Introduction

1. By a Part 8 claim filed out of hours on 25 February 2026, the Claimant sought a writ of habeas corpus requiring the Defendant to release him from custody at HMP Thameside ("the prison"). The prison is privately run, by Serco, under contract with His Majesty's Prison and Probation Service ("HMPPS"). A court order had required the Claimant's release as soon as possible after 4.40 pm on 20 February 2026. A series of urgent remote hearings took place before me after the application for the writ was made. The Claimant was eventually released at 3.47 pm on 26 February 2026.

2. By a consent order approved on 6 March 2026 the Defendant has agreed to pay the Claimant £5,000 in damages for unlawful detention and £5,500 in costs.

3. However, I concluded that a public judgment recording the factual matters that led to that order being made was appropriate, given that this case gives rise to concerning issues about the Defendant's compliance with the principles relating to false imprisonment and habeas corpus, set out in *Niagui v The Governor of HMP Wandsworth* [2022] EWHC 2911 (Admin); [2023] 4 WLR 2 ("*Niagui*") and *Kim v The Governor of HMP Wandsworth* [2024] EWHC 645 (Admin) ("*Kim*").

4. The matters summarised below are drawn from the evidence filed by the parties, namely (i) witness statements from Alex Pierides, the Claimant's solicitor, dated 25 and 26 February 2026; (ii) witness statements from Chiara Violett, Custody Case and Support Manager at the prison, dated 26 February 2026 and 2 March 2026; and (iii) an affidavit from Jonathan Bratt, the Director (equivalent to the Governor) of the prison, and thus the Defendant, dated 2 March 2026.

The factual background

5. On 10 January 2025, the Claimant was remanded in custody into youth detention accommodation. In around June 2025, having turned 18, he was transferred to the adult prison estate and ultimately to HMP Thameside.

20-22 February 2026

6. On 20 February 2026, at a hearing which concluded at around 4.40 pm, the Claimant was sentenced by HHJ Reed sitting at Inner London Crown Court to a Detention and Training Order ("DTO") of 24 months duration, with credit for time spent on remand and tagged bail. As a result of the sentence imposed, the Claimant was entitled to immediate release. At 4.56 pm HHJ Reed confirmed the Claimant's sentence as a Widely Shared Comment on the Digital Case System.

7. At 5.35 pm Mr Pierides' colleague, Natalya Symeou, sent an email to the prison's Offender Management Unit ("OMU"), advising them that the Claimant should be released immediately, and requesting that the OMU confirm the position urgently.

8. At 7.40 pm a member of staff at Inner London Crown Court emailed the sentencing documentation to the prison, stating "the sentence is deemed served" such that "the defendant can be released".

9. As Mr Bratt has explained in his affidavit at [10], by the time the email from the court staff arrived, the custody staff had gone home for the weekend; and no custody staff were on duty to cover the weekend. As a result the OMU inbox was not monitored over the weekend and the Claimant was not released.

23 February 2026

10. On the morning of 23 February 2026, the Claimant contacted his solicitors to advise them that he had not yet been released from custody. He said that he understood that the prison had not yet received the necessary documentation from Inner London Crown Court regarding his sentence.

11. At 10.49 am Mr Pierides sent an email to Inner London Crown Court, copied to the OMU, setting out the Claimant's understanding of the position, and asking the court to provide the prison with the necessary documentation urgently so that the Claimant could be released immediately. At 11.21 am a court clerk from Inner London Crown Court replied, again copying in the OMU, indicating that the necessary documentation had in fact been sent to the prison at 7.40 pm on 20 February 2026, as reflected in [8] above.

12. Ms Violett explained that on being informed of the sentencing documentation at around 1 pm, she began making enquiries about the mechanics of releasing the Claimant. This was because the Claimant had been released on a DTO, a sentence reserved for those under 18. The prison is an adult prison, which does not normally manage those released on a DTO. She considered that it was important to clarify that the sentence was correct, because there are differences between the licence regimes for DTOs and adult sentences, notably that there is no automatic right of recall under a DTO.

13. Mr Pierides received no communication from the prison during this day.

24 February 2026

14. On the morning of 24 February 2026, the Claimant contacted his solicitors again explaining that he was still in custody. At 9.45 am Mr Pierides sent a further email to the OMU, stating that the Claimant was "now being unlawfully detained" and asking for the issue of his continued detention to be "considered as a matter of urgency".

15. At some point during the day, it appears that someone from the OMU sent a message to Inner London Crown Court saying that they had "had to go to [the] OMU specialist as [the Claimant] was given a DTO but was 18 when he was convicted and sentenced" and observing that "DTO's are usually given to young offenders between 12-17 so we have had to query it".

16. At 5.34 pm HHJ Reed emailed court staff indicating that the Claimant was 17 when he was convicted of all bar one matter and that the issue over his age had been discussed at length during the hearing, such that the Claimant's counsel would be able to assist.

17. Mr Pierides received no response to the email described at [14] above.

25 February 2026

18. At 12.05 pm on 25 February 2026, Mr Pierides contacted the prison by telephone, asking to speak to the Duty Governor. He was told the Governor was at lunch and that nobody was available. The call handler said that the call would be put through to the prison's Custody Team and put Mr Pierides on hold. The handler then returned to the call saying that the Custody Team "knew of the case" and that it was being discussed "with legal". Mr Pierides asked to be put through to the Custody Team in any event, but the call handler declined to do, saying that the Team was "only available for emergencies and prisoner welfare [issues]". This was despite Mr Pierides highlighting that this was the only in-hours telephone number available to call. The call handler advised him to put his concerns in an email to the Custody Team.

19. At 12.18pm Mr Pierides emailed the Custody Team, recording the contents of the telephone call set out in the preceding paragraph. His email also said the following:

> "We have written to the HMP Thameside OMU via emails of 20th February, 23rd February and 24th February 2026, to which we have not received a substantive response regarding our client's release from custody.
>
> We are extremely concerned that our client has been unlawfully detained since his sentence on 20th February 2026…
>
> Please be advised that a complaint by a solicitor that a prisoner is being unlawfully detained demands a substantive response as a matter of urgency. Prisons must be able to respond urgently to lawyers properly raising questions as to the lawfulness of a prisoner's continued detention.
>
> Could we please be provided with an urgent response regarding the reason for our client's continued detention.
>
> Please be advised that we intend to make an application for a writ of habeas corpus".

20. Mr Pierides received no response.

21. Mr Ryle drafted an application for a writ of habeas corpus. Mr Pierides completed the Part 8 claim form, his first witness statement and the paperwork necessary to be heard by the out of hours Kings' Bench Division duty judge. The papers were filed at 9.13 pm.

22. As duty judge I reviewed the papers and held a hearing under CPR 87.5 by MS Teams, commencing at 10.12 pm. I concluded that I needed to hear from the Defendant, but that it was unlikely to be feasible to convene and conduct a meaningful hearing on notice to the Defendant that night, especially in light of the lack of engagement from the prison so far. I was also concerned about the safety of potentially ordering the release of the Claimant, a former looked after child, in the small hours of the morning, as it was not clear that the local authority accommodation to which he would be released would be available to him at that time.

23. Accordingly, by [4] of my order dated 25 February 2026 I ordered the Defendant to file and serve a witness statement responding to the application and setting out the legal

basis on which it was contended that the Claimant was being detained, by 12.00 pm noon the following day, with a hearing to follow at 2.00 pm, or as soon thereafter as the Court can accommodate.

24. At 11.51 pm on 25 February 2026, Mr Pierides served an unsealed copy of the order and the application paperwork on the Defendant at both the Custody and OMU email addresses, as I had directed.

26 February 2026

25. At around 10.30 am on 26 February 2026, on her arrival at work, Ms Violett was alerted to the email attaching the order and other documents by a colleague in the Custody Team. The title of the email made clear that the matter was urgent and related to an application for habeas corpus. However, Ms Violett has explained that she had never had to deal with a habeas corpus application before and did not review all the attachments fully. She did not fully appreciate the urgent nature of the documentation.

26. At 11.20 am, Ms Violett emailed Mr Pierides, stating the following:

> "We have had to refer this case to OMU specialist as he was given a DTO but was 18 when he was convicted and sentenced. DTO's are usually given to young offenders between the age of 12 to 17 so we have had to query it and are waiting for an update.
>
> Jayden will be released as soon as we have confirmation that he has received the correct sentence as this also effects his timeline licence on which licence he is released on".

27. At 11.52 am Mr Pierides and Ms Violett spoke by telephone. Ms Violett informed Mr Pierides that the Governor was not available and did not come out of a meeting until 12.00 pm on 12.30 pm. She said that the identity of the Duty Governor was unknown but would be obtained; and that she "assumed" that the Duty Governor would attend the hearing listed for 2 pm.

28. The Defendant did not comply with the order that he provide a witness statement by 12.00 pm noon on this day.

29. At 12.04 pm the OMU Specialist Team confirmed to Ms Violett that as the Claimant had first been remanded into custody as a youth, he could be sentenced to a DTO and released on a DTO licence.

30. At 12.18 pm Mr Pierides emailed the prison, recording the contents of the telephone call set out in [27] above and stating the following:

> "We advise…that we require a substantive response to the application for writ of Habe[a]s Corpus which we have to date not received…
>
> We note again, that we have not received a substantive response to our application, and we may seek damages on behalf of our client, in respect of what we contend is his unlawful detention".

31. At 12.53 pm Mr Pierides served the sealed copies of the Part 8 claim form and my order on the Defendant, having received the same from the court. These two further emails led Ms Violett to escalate the matter to her managers, who contacted the Serco legal team at 1.13 pm.

32. At 1.56 pm Mr Holland made contact with the court, explaining that he had only received the sealed court order, and that as this had only been served on the Defendant at 12.53 pm it had not been possible for the Defendant to comply with it. He had not been provided with the unsealed order served the previous evening.

33. The Defendant was not present or represented when the hearing commenced at 2.00 pm. Mr Holland attended part-way through the hearing. He confirmed that enquiries had been made and that it was anticipated that the Claimant would be released shortly. The matter was put back until 4.15 pm. At the resumed hearing, both parties confirmed that the Claimant had been released from custody at 3.47 pm.

34. I directed the Defendant to file and serve an affidavit by 4.30 pm on 2 March 2026 which explained (i) the delay in the Claimant being released; (ii) why, if it was accepted that this is the case, the various communications with the Defendant set out in both witness statements from Mr Pierides were not replied to; (iii) why the Defendant had not complied with [4] of my order, which had been served on the Defendant in unsealed form at 11.51 pm on 25 February 2026; and (iv) how, if this was the Defendant's position, the Defendant had not breached the requirement set out in *Niagui* at [36], to the effect that "a complaint by a solicitor that a prisoner is being unlawfully detained demands a substantive response as a matter of urgency".

Events after 26 February 2026

35. The affidavit from Mr Bratt was duly filed together with the two statements from Ms Violett.

36. The matter was listed for a further hearing on 6 March 2026 for determination of the Claimant's application for the Defendant to pay his costs on an indemnity basis and for further directions on the Part 8 claim as appropriate. Shortly before the hearing the consent order described at [2] above was agreed.

The legal framework

37. In *Niagui*, an application for a writ of habeas corpus was made to Chamberlain J as duty judge on Saturday 5 November 2022. He fixed a substantive hearing for Monday 7 November 2022. Shortly before the hearing, the Claimant was released, so it was not necessary to issue the writ or make any other order. He nevertheless indicated that he would give a written judgment because it had become clear that the Claimant had been unlawfully detained for the best part of 3 days in circumstances which gave Chamberlain J "serious cause for concern": [1].

38. At [32] Chamberlain J identified five "troubling features" of the case, from which he distilled the following principles relevant to applications for a writ of habeas corpus:

> "33. First, no-one (including a Serco employee, a police custody officer or a prison officer or governor) may detain another person, except with lawful authority…
>
> 34. Second, a person who complains of unlawful detention does not have to show that there is no authority to detain him. Once it is shown that he is being detained, the detaining authority has to show that there is authority to detain him. That is so whether the complaint is made by application for a writ of habeas corpus or by a claim for false imprisonment. This is not just a procedural quirk. It is central to the protection accorded by the common law to the liberty of the subject…
>
> 35. A third and related point is that Prison Service instructions and policies concerning the steps to be completed prior to release no doubt serve a useful function, but the need to comply with them is not a lawful ground for detention. Again, staff seem to have thought that, because the relevant checks could not be completed before Monday, they were obliged to continue to detain the claimant until then. This was not lawful. When remand prisoners are taken to court, prison staff must ensure either that checks to see whether there are other authorities to detain are carried out beforehand…or, at the very least, that staff are available by telephone and have the records they need to carry out the necessary checks immediately upon acquittal. Once a prisoner is acquitted, it may be that the prisoner can be lawfully detained for the short time necessary to process and release him in an orderly fashion. On no view, however, should he be detained overnight, let alone over a weekend, to enable such processing to take place.
>
> 36. Fourth…The offhand way in which Mr Levy's enquiries were dealt with is also troubling. I understand the resource pressures on prisons, but a complaint by a solicitor that a prisoner is being unlawfully detained demands a substantive response as a matter of urgency, even over the weekend. It is not acceptable to say, "Wait till Monday".
>
> 37…Consideration should be given to the drafting of a new instruction or policy document giving effect to the principles I have set out here, so that Prison Service staff and contractors have a better understanding of their legal powers and duties".

39. In *Kim* the Claimant was sentenced on the morning of 16 January 2024. He should have been released shortly thereafter but was not. His representatives appeared before the duty judge that evening and at 2.23 am on 17 January 2024, Pepperall J gave leave for the issue of a writ and ordered the Defendant to produce the Claimant before him at 11 am if he had not been released before that time. The Defendant did not comply with this order, but released the Claimant later that day: [7]-[11].

40. At [19] Pepperall J held that notwithstanding the Governor's claim that lessons had been learnt from *Niagui*, the *Kim* case revealed "a lamentable series of failings in the way in which the prison service deal with the release of prisoners and its apparent contempt for court orders". He continued, in material part:

> "19.1 This was not a case, like *Niagui*, in which a hearing only ended after usual court hours on a Friday night. Mr Kim was sentenced at 11.41 a.m. on a Tuesday morning in a normal working week. His release should have been processed shortly after the hearing concluded and this case should never have had to involve the engagement of out-of-hours procedures…
>
> 19.3 As in *Niagui*, it is worrying to see the dismissive way in which a solicitor's representations were dealt with by the officers and duty governor at the prison. Neither Governor James nor any other staff afforded him the courtesy of a reply and it was clear from their attitude that the prison would do nothing until the OMU staff started work the next morning.
>
> 19.4 It is no good setting up a dedicated unit to deal with urgent out-of-hours habeas corpus applications and not also troubling to train staff to refer cases or lawyers to that unit…Furthermore, it appears that no systems have even been put in place to identify emails received by the prison containing the keywords "habeas corpus" in order to ensure that such emails are immediately (and perhaps automatically) referred to the out-of-hours specialist unit.
>
> 19.5…it is extraordinary that a solicitor's insistence that a prisoner was being unlawfully detained and that, absent his immediate release, an out-of-hours habeas corpus application would be made to a High Court Judge does not appear to have met the threshold of seriousness to trouble the duty governor. Instead the complaint appears to have been met with institutional indifference.
>
> 19.7 Even after receipt of the court's order at 3.11 a.m., it took over 8 hours to release Mr Kim".

41. At [22] Pepperall J summarised the relevant principles thus:

> "22.1 It is neither lawful nor acceptable to detain prisoners for a further 24 hours after there ceases to be any lawful basis for their continued detention.
>
> 22.2 It is incumbent on the prison service to ensure that pre-release checks are completed speedily. The onus is always on the prison service to establish that there are grounds for further detention, and not upon the prisoner to establish his or her entitlement to release.
>
> 22.3 Prisons must be able to respond urgently to lawyers properly raising questions as to the lawfulness of continued detention. Governors are responsible for the management of their prisons and it is not acceptable to ignore habeas corpus applications or to regard them as an inconvenience that can be addressed during office hours or delegated to the OMU.

> 22.4 Court orders and writs of habeas corpus must be strictly complied with and treated with greater seriousness than has been evident in this case".

42. The Governor having conceded the point, Pepperall J formally declared that Mr Kim's continued detention following the sentencing hearing on 16 January 2024 was unlawful. He ordered that the Governor pay Mr Kim's costs on the indemnity basis "in view of the serious failures in this case both in respect of the proper and timely processing of Mr Kim's release and in compliance with the court's orders and the writ of habeas corpus": [24].

43. In *Bashir v The Governor of HMP Pentonville* [2025] EWHC 101 (Admin) ("*Bashir*") the Claimant was sentenced on the afternoon of Friday 13 December 2024. Having already served sufficient time in prison on remand, the Judge stated that he was entitled to release immediately after the sentence was passed at 4.37 pm. He was not, in fact, released until 2 pm on 14 December 2024, after the Claimant's lawyers had come before the court out of hours: [3]-[4], [10]-[11] and [16]. The Defendant did not comply with a court order to provide a witness statement: [18]. Ritchie J restated the principles from *Niagui* and *Kim* and added further observations as to the role of the Probation Service: [39].

Analysis and observations

44. The events in this case, when considered against the established principles set out in *Niagui*, *Kim* and *Bashir*, make it impossible to conclude anything other than that there were a series of failings in the way in which the Defendant responded to the order requiring the release of the Claimant.

45. *First*, the evidence provided by Ms Violett and Mr Bratt strongly suggests a lack of understanding by the prison staff of the fundamental principles set out in *Niagui* at [33]-[34], repeated in *Kim* at [22.1], to the effect that no-one can be detained without lawful authority and that it was for the prison to show that such an authority existed. Nor was there any sense of urgency in their actions.

46. As in *Niagui*, the staff appeared to consider that they were required to continue to detain the Claimant while internal checks relating to the mechanics of his release were carried out, and that this was justified for several days. That was not correct: *Niagui* made clear at [35] that the necessary checks should be carried out before remand prisoners are taken to court; or that systems should be put in place to allow them to be carried out in a "short time" after the hearing. "On no view" should a prisoner be detained "overnight, let alone over a weekend", so as to enable such checks and processing to take place. *Kim* at [22.2] reiterated that checks must be carried out "speedily" after a hearing, not over several days.

47. *Second*, the central query about the nature of the sentence imposed in this case was not particularly complex: as Mr Ryle pointed out, the Children and Young Persons Act 1963, section 29 provides that a DTO can be passed if the defendant turns 18 during the proceedings. If this legal provision was not known to Serco (and there is surely a good argument that it should have been), the position should have been capable of being clarified relatively quickly. The email from the Judge referred to at [16] above made clear that the issue of the Claimant's age had been discussed at length during the

sentencing hearing such that his legal representatives would have been able to assist, had the prison engaged earlier with them.

48. *Third,* it follows that it was not lawful to continue to detain the Claimant for almost 6 days, until 26 February 2026, while such checks were carried out. I observe that the period of unlawful detention in this case, of almost 6 days, was considerably longer than the periods of just under 1 day to 3 days in *Niagui*, *Kim* and *Bashir*. This is particularly troubling as the Claimant is a young person who has only turned 18 relatively recently; and is additionally vulnerable as he is a former looked after child, currently housed by the local authority.

49. *Fourth*, both the Claimant and his solicitor had tried to secure his release by a variety of means over several days. The Claimant spoke to staff within the prison and called his solicitor twice. His solicitors contacted the OMU and Custody teams by email and telephone. Mr Pierides tried to speak to the Duty Governor on more than one occasion and the Custody team.

50. Despite this volume of activity on the Claimant's side, a series of emails went entirely unanswered by the Defendant's staff. Even when Mr Pierides quoted the passage in *Niagui* at [36], to the effect that "a complaint by a solicitor that a prisoner is being unlawfully detained demands a substantive response as a matter of urgency", and threatened to bring an application for a writ of habeas corpus, he received no substantive reply. He was not put through to the Custody Team even though this was plainly a situation involving both an emergency and prisoner welfare, which were said to be the necessary criteria for a solicitor to be permitted to speak to that team: [18] above. On 25 February 2026, he was told that the Duty Governor was at lunch and could not be contacted; and the following day, he was told that the Governor was unavailable and that the identity of the Duty Governor was unknown: [18] and [27] above.

51. As far as I can tell, it was not until the morning of 26 February 2026 that Ms Violett explained to Mr Pierides that the reason for the delay was the uncertainty around the nature of the DTO sentence: [26] above. This was 6 days after Mr Pierides' firm had first said that the Claimant should be released and relatively shortly before he actually was.

52. Given this background, it is hard to avoid the conclusion that the Defendant's response was as "offhand" as it had been in *Niagui* (see [36]); and reflected a "dismissive" attitude and "institutional indifference" as it had done in *Kim* (see [19.2] and [19.5]). The Defendant's staff failed to comply with the requirement to ensure a substantive, urgent response when a solicitor complains that their client is being detained unlawfully, as set out in *Niagui* at [36] and *Kim* at [22.2].

53. In his affidavit at [8], Mr Bratt has rightly acknowledged that it was unacceptable that the correspondence in the Claimant's case was not suitably escalated. He also quite fairly accepted that had that occurred, the Business Support Team and legal team would have been involved earlier and "steps to clarify the situation and effect release would likely have been expedited".

54. *Fifth*, it seems clear that prior to the events in this case, the prison did not have in place "an instruction or policy document giving effect to the principles [set out in *Niagui*]…so that Prison Service staff and contractors have a better understanding of their legal

powers and duties", as suggested by Chamberlain J in *Niagui* at [37]; nor was there a "clear, short, Prison policy and procedure leaflet giving guidance about "after hours judicial / Court release decision procedure" of the sort Ritchie J was told was going to be provided at HMP Pentonville: see *Bashir* at [39](6).

55. It is therefore to be welcomed that in his affidavit at [8], Mr Bratt has confirmed that on 2 March 2026 he issued a Director's Notice to all Serco staff which at least begins to address these issues. Mr Holland provided me with a copy of the Notice. It explains the nature of habeas corpus and directs staff that if they are made aware of "a 'Habeas Corpus allegation" they must refer it to the Duty Governor, a specific "litigation" inbox and two named individuals. This should assist in ensuring appropriate escalation of habeas corpus issues when they are raised.

56. However, the Notice is very brief. It does not explain the fundamental principles about the power to detain and the requirement for a lawful authority for detention; nor does it emphasise the need to ensure that pre-release checks are conducted before a hearing or speedily thereafter, as set out in *Niagui* at [33]-[35] and *Kim* at [22.1]-[22.2]. There is also, it seems to me, a risk that the Notice will be interpreted as only applying when a solicitor specifically uses the words "habeas corpus", rather than raising a more general concern that a client may be being unlawfully detained.

57. Mr Holland indicated that the specific "litigation" inbox referred to in the Notice will now be publicised among solicitors who regularly represent those detained in the prison. It remains a little unclear at what point in a situation a solicitor will be directed to use this inbox – i.e. whether it is when a habeas application is about to be filed in court, or earlier, when a solicitor is hoping to resolve an issue without resorting to litigation. Mr Ryle also made the point that the email address might usefully be publicised more widely than to simply established solicitors, for example, by it being put on the prison's website. As Pepperall J observed in *Kim* at [19.4], when a dedicated emergency process of this kind is set up, it is essential that there is proper training and clarity around how the process is to be used.

58. *Sixth*, as in both *Kim* and *Bashir*, a High Court order requiring the Defendant to explain to the court why the Claimant was being detained was not complied with, in breach of the requirement to this effect set out in *Kim* at [22.4]. In his affidavit at [12].iii, Mr Bratt has accepted that the order was not complied with because "the importance and significance" of the order was "not appreciated" by the staff. For her part, Ms Violett has apologised for failing to recognise the importance of the email containing the court order, confirming that she has taken the matter as a serious learning opportunity for herself and her colleagues. It is to be hoped that the Notice referred to in [55] above assists in underscoring the significance of orders of this kind, especially given the fundamental right to liberty which is at stake.

59. *Seventh*, in his affidavit at [11], Mr Bratt accepted that the failure to clarify the Claimant's sentence more promptly also reflected operational shortcomings in this case. He indicated that he would seek to remedy these by issuing a further Director's Notice and providing additional training and guidance as to the steps to be taken when a sentence is unclear.

60. *Eighth*, Mr Bratt explained in his affidavit at [10] that the fact that no Custody Team staff were on duty to cover the weekend is in accordance with the contract Serco has with HMPPS. At [12].iv he observed that:

> "Serco is a private operator and is different to HMPPS. Staffing levels are contractual along with financial parameters".

61. With respect, Serco is not different to HMPPS when it comes to complying with the principles set out in *Niagui*, *Kim* and *Bashir*: in the context of the management of prisons, both Serco and HMPPS are detaining authorities and thus in the same position and bound by the same obligations with respect to false imprisonment and habeas corpus.

62. A contract which does not provide for Custody Team staff cover over the weekend will inevitably make compliance with the relevant principles much more difficult, given that *Niagui* at [35] makes clear that it is not acceptable to expect a prisoner who is entitled to be released to wait over the weekend while checks are carried out. Mr Ryle made the sensible point that a contractual term of this kind may apply to other private prisons. For his part Mr Bratt reassured the court that he will take steps to ensure that there is increased personnel resource made available to cover Friday evenings, after the Court sitting times, at this prison. This is to be commended.

Conclusion

63. As indicated at [2] above, the Defendant has agreed to pay the Claimant substantial sums of money by way of damages and costs. Had I been required to decide the issues I would have found the Defendant liable for false imprisonment for the reasons set out above; and ordered that the Defendant pay the Claimant's costs on an indemnity basis for the reasons given by Pepperall J in *Kim*: see [42] above.

64. The process of the Claimant bringing the issue of his detention before the court has generated commitments as to changed procedure within the prison, which are set out at [55], [57], [59] and [62] above for future reference.

65. I commend Mr Pierides and Mr Ryle for their efforts on behalf of the Claimant. As Pepperall J observed in *Kim* at [26], it is "critically important to the rule of law that those who are unlawfully detained should have the benefit of such dedicated professional representation and of emergency access to the court".