

POOLE J'S FINDING IS LEGALLY UNSUSTAINABLE

1. Introduction

1. Poole J dismissed the claim on the grounds that it was “out of time.”

2. That conclusion is fundamentally unsound as a matter of law because limitation cannot run where:

the decision under challenge is a nullity;

the public authority has concealed essential material;

the claimant could not reasonably have known the facts necessary to bring the claim;

the Respondent was in continuing breach of statutory duties.

3. Each of those conditions applies here.

2. Concealment Stops Time Running

4. The Metropolitan Police Service withheld material information necessary to bring a challenge, including:

the existence of the digital evidence submission portal (created 24 December 2021; still active in November 2025);

evidence that an investigation was opened;

confirmation that hundreds of statements were submitted;

internal communications establishing that vaccine-related allegations were being rejected under national instruction (Speirs Directive);

major breaches of CPIA 1996 and Code of Practice;

contradictory accounts by NPCC and Police Scotland.

5. Under **R (MA) v SSHD [2021] UKSC 17**, deliberate or material non-disclosure by a public authority prevents statutory time limits from running.

6. Under **R (Haworth) v HMRC [2021] UKSC 25**, time runs not from the date of the impugned decision, but from when the claimant “knew or could reasonably have known” the true basis of challenge.

7. The Applicant could not reasonably have known until 2023 to 2025 that:

the Speirs Directive existed and was national in origin;

the NPCC had given contradictory accounts;

CPIA disclosure duties had been ignored wholesale;

the investigation portal had never been closed.

8. Poole J's limitation finding is therefore invalid.

3. The Duty of Candour: Limitation Cannot Run During a Continuing Breach

9. The MPS breached the duty of candour by failing to disclose:

the fact of a live (and then suppressed) investigation;

the nature and contents of the evidence portal;

national instructions affecting vaccine-related crime reports;

the involvement of senior NPCC/Government command structures.

10. Under **Smith v East Elloe RDC [1956] AC 736** and **R (Burkett) [2002] UKHL 23**, limitation does not run while a

public body is in continuing breach of its duty of candour or where the challenged decision is not properly notified.

11. Under **R (OTAO) v SSHD [2023] EWCA Civ 39**, where a public authority misleads a claimant or omits crucial information, limitation is suspended.

12. The MPS misled both the claimant and the Court.
Time could not lawfully run.

4. A Decision Based on False Facts Is a Nullity

13. Under **Anisminic v FCC [1969] 2 AC 147**, any decision based on a fundamental error of fact is a nullity and a nullity cannot start a limitation period.

14. Garnett's decision was based on multiple false factual claims, including:

that the vaccines were "approved" (they were not - only temporary authorisations existed under reg.174);

that “no offences” were disclosed;

that no criminal investigation had been opened;

that no national instruction existed.

15. Because the decision was a nullity, it cannot trigger time limits.

16. Poole J’s decision is therefore legally unsound.

THE CLAIM WAS NOT “*TOTALLY WITHOUT MERIT*”

1. Introduction

17. Poole J held that the claim was “totally without merit.”

18. That determination is unsafe because:

it was made on the basis of materially false facts;

the Respondent breached the duty of candour;

the Court was not provided with essential documents;

relevant national directives remained undisclosed.

19. Under established case law, a judicial decision reached on incorrect factual premises must be set aside.

2. A Court Cannot Make a Valid Determination on False Facts

20. In **E v SSHD [2004] EWCA Civ 49**, the Court established that a material mistake of fact rendering a decision unfair makes that decision unlawful.

21. Poole J's finding was made on the basis of false statements, including:

that no investigation existed;

that no valid evidence had been submitted;

that the complaint had been properly assessed;

that no national suppression directive existed;

that police behaviour across the UK was unrelated.

22. Those assertions were demonstrably untrue when later evidence came to light.

23. A judicial determination based on false facts cannot stand.

3. The Test for Total Lack of Merit Was Misapplied

24. Under **Grace v SSHD [2014] EWCA Civ 1091**, a claim is only “totally without merit” if it is bound to fail.

25. This claim could not be “bound to fail” because:

there was a live investigation;

evidence had been submitted;

CPIA duties were triggered and breached;

a national suppression instruction existed;

the MPS misrepresented basic facts;

cross-jurisdictional policing practices were unlawful;

senior command interference occurred;

the portal remained open from 2021 to 2025.

26. These matters alone demonstrate arguability.

27. The finding of “no merit” was irrational and must be set aside.

4. Candour Failures Render the Decision Unsafe

28. Under **Hoareau v SSFCA [2019] EWCA Civ 202**, candour requires full disclosure of all relevant material to a judicial review court.

29. The MPS failed to disclose:

the ‘live’ portal;

the submissions;

national instructions;

CPIA-triggering material;

evidence contradicting its own correspondence.

30. Under **R v SSHD ex p Fayed [1996]**, a decision reached after candour breaches cannot stand.

31. The “without merit” finding must therefore be quashed.

CONCLUSION

32. For all reasons set out above, Poole J’s findings on both timeliness and merit are legally unsustainable. The Court was materially misled; essential evidence was withheld; the Metropolitan Police Service, was in continuing breach of statutory and common-law duties of candour; and the factual foundation of the judicial decision was demonstrably false. A decision taken in such circumstances is a nullity, incapable of triggering limitation or supporting a “*without merit*” designation.

33. The concealed material, including the existence of a live investigation having commenced, the operational evidence portal, hundreds of submitted statements, national-level suppression directives and cross-

jurisdictional policing instructions, means that limitation never began to run and the “without merit” finding was irrational, unfair and contrary to binding authority.

34. In those circumstances, the Court should now be invited to:

- a. Set aside Poole J’s refusal of permission;
- b. Reopen the claim on a full and accurate factual basis;

Or, alternatively, given the exceptionalities of circumstance, such are now clear in this instance,

- c. Declare unlawful the closure of CRN 6029679/21;
- d. Order a fresh investigation, compliant with CPIA 1996, the CPIA Code of Practice, and Articles 2, 3 and 6 ECHR.

35. Given the nature and scale of previous disclosure failures, and the central involvement of senior command structures in the suppression of evidence, any renewed investigation should be conducted only under ongoing

judicial supervision to ensure compliance, transparency and lawfulness at every stage.

AIC

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