



Claim No: JR/626/2020

IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER
IN THE MATTER OF AN APPLICATION FOR JUDICIAL REVIEW
BETWEEN:-

R (on the application of) Ahmed LAWAL

Applicant

-and-

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

ORDER

BEFORE Mr Justice Lane, President of the Upper Tribunal (Immigration and Asylum Chamber), and Upper Tribunal Canavan sitting at Field House, London on 3 and 4 March 2021

UPON HEARING from leading counsel, Ms Sonali Naik QC, and junior counsel, Mr Raza Halim and Mr Stephen Clark, for the Applicant and Mr Colin Thomann, for the Respondent by Skype for Business

UPON consideration of the further written submissions filed on 11 and 18 March 2021

IT IS ORDERED THAT:-

1. The claim for judicial review is allowed.

IT IS DECLARED THAT:

2. The Respondent acted unlawfully in her decision to remove the Applicant on 17 September 2019 in that she had failed to take reasonable steps to secure the applicant's evidence concerning the death of Oscar Okwurime contrary to her Article 2 procedural obligations.
3. The Respondent's policy, namely DSO 08/2014 *Death in immigration detention* as issued in August 2020, is unlawful in that it gives rise to a real risk of an Article 2 procedural breach because it does not direct relevant personnel actively to identify, and to take steps to secure the evidence of, those detainees whom there is reason to believe may have relevant information concerning the death of the person concerned.
4. The Respondent's absence of a policy directed to caseworkers on how to exercise immigration powers in a case concerning a witness to a death in custody is unlawful due to a breach of her Article 2 procedural obligations in respect of deaths in immigration detention.

AND IT IS FURTHER ORDERED THAT:

5. The Respondent shall pay the Applicant's costs incurred in and incidental to the claim, to be assessed on the standard basis if not agreed, save for those costs incurred from 22 January 2021 to 25 February 2021 inclusive which the Respondent shall pay on the indemnity basis.
6. There shall be no order as to the cost of the applications for disclosure of the Interim Report of the Prison and Probation Ombudsman.
7. Any application for a payment on account of costs shall be made within fourteen days of this order, supported by the appropriate schedules of costs, and any response to such an application shall be filed within fourteen days of the receipt of

the application. If no application is made to the panel within that time, any contested application must be made to the costs judge.

8. There shall be a detailed assessment of the appellant's legal aid costs.
9. Any application for permission to appeal if, so advised, shall be made to the Upper Tribunal within 21 days.

Dated this 14 day of April 2021

Mr Justice Lane