

Judicial Communications Office

17 June 2026

COURT OF APPEAL DISMISSES APPEAL CONCERNING UNTRACED DRIVERS' COMPENSATION SCHEME

Summary of Judgment

The Court of Appeal¹ today dismissed an appeal concerning the lawfulness of the Untraced Drivers' Agreement 2004 ("the 2004 Agreement"), which governs compensation for victims injured by untraced drivers. It concluded that the scheme, taken as a whole, complies with the requirements of EU law and the European Convention on Human Rights and does not require provision for court approval of awards to minors.

Background

The appellant, a minor acting by his grandfather, was injured in 2011 when an untraced vehicle struck his pram.

A claim was made to the Motor Insurers' Bureau ("MIB"), which offered compensation of £2,500 together with interest. Although the appellant accepted the quantum of the award, it was contended that it required judicial approval and that the damages should be held by the Court Funds Office until he reached majority.

Issues on appeal

Judicial review proceedings were brought challenging the lawfulness of the 2004 Agreement and its application. The appellant argued that the scheme failed to comply with EU law, because it did not provide procedures equivalent to those available in claims against identified drivers, including access to the court for approval of settlements involving minors. It was further contended that the arrangements were incompatible with the appellant's rights under the European Convention on Human Rights ("ECHR"). The High Court rejected these claims, and the matter came before the Court of Appeal.

Consideration

The court considered the scheme in light of the EU law principles of equivalence and effectiveness. The court indicated that the Directive requires Member States to ensure that compensation is available in cases involving untraced drivers but allows flexibility in the procedures by which this is achieved.

The court held that the 2004 Agreement, taken as a whole, satisfies the requirements of equivalence and effectiveness. The court emphasised that equivalence does not require identical procedures to court proceedings, particularly in cases where no proceedings can be brought against a tortfeasor.

¹ The panel was Keegan LCJ, Colton LJ and McAlinden J. McAlinden J delivered the judgment of the court.

Judicial Communications Office

The court found that the scheme provides a structured mechanism for determining claims, including investigation by the MIB, assessment of damages by reference to court principles, and a right of appeal to an independent arbitrator. The availability of further challenge under the Arbitration Act 1996 and judicial review provides additional safeguards.

The court rejected the contention that minors have an absolute right to court approval outside the context of existing proceedings. The court held that such protections arise as an aspect of the court's supervisory jurisdiction in litigation and do not apply to administrative compensation schemes of this nature.

The court further held that the scheme contains sufficient flexibility to safeguard the interests of minors, including the use of trusts or the appointment of an appropriate representative. The court placed significant weight on the steps taken in this case to ensure independent scrutiny and the secure management of the award, including the involvement of the Official Solicitor and provision for court control of the funds.

The court rejected the appellant's claim under article 6 ECHR, holding that the scheme did not deny access to a court. The court noted that judicial oversight remained available through judicial review and limited appeals under the Arbitration Act, which together with the arbitral process were sufficient to satisfy the requirements of a fair hearing.

The Court likewise dismissed the claim of discrimination under article 14 ECHR, holding that any differences in treatment were justified and that, once the tests of equivalence and effectiveness were met, no unlawful differential treatment arose.

Conclusion

The court emphasised that its conclusion was informed by the particular facts of the case, including the safeguards offered by the MIB, observing that the absence of comparable measures in future cases might lead to a different outcome.

Accordingly, the appeal was dismissed.

NOTES TO EDITORS

1. This summary should be read together with the judgment and should not be read in isolation. Nothing said in this summary adds to or amends the judgment. The full judgment will be available shortly on the Judiciary NI website (<https://www.judiciaryni.uk/>).

ENDS

If you have any further enquiries about this or other court related matters please contact:

Alison Houston
Lady Chief Justice's Office
Royal Courts of Justice

Judicial Communications Office

Chichester Street
BELFAST
BT1 3JF

E-mail: LCJOffice@judiciaryni.uk