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*Judgment: approved by the court for handing down
(subject to editorial corrections)**

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ICOS No: 25/83066

Delivered: 09/09/2026

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

**KING'S BENCH DIVISION
(JUDICIAL REVIEW)**

**IN THE MATTER OF AN APPLICATION BY SALIA IDRISU
FOR LEAVE TO APPLY FOR JUDICIAL REVIEW**

**Mr Daniel O'Muirigh (instructed by Oracle, Solicitors) for the Applicant
Mr Joseph Kennedy (instructed by the Crown Solicitor) for the Proposed Respondent**

McLAUGHLIN J

Introduction

[1] This is an application for leave to apply for judicial review of a decision of the Secretary of State for the Home Department dated 8 October 2025. The Secretary of State rejected a second asylum claim and also decided that it was not "*significantly different*" from the first claim, within the meaning of paragraph 353 of the Immigration Rules. The Secretary of State accepted that the content of the second claim raised issues which had not been considered in the first claim but concluded that it did not have a "*realistic prospect of success*." Consequently, the second asylum claim did not constitute a "*fresh claim*" for the purposes of section 82 of the Nationality, Immigration and Asylum Act 2002 and the applicant did not have a right of appeal to the First Tier Tribunal.

Background

[2] The applicant was first encountered by UK Immigration Officers on 23 August 2014 when he attempted to board a ferry from Belfast to Scotland. After initially claiming he was a French national he later claimed to be from Mali. He claimed to have travelled by air from Mali to France on 29 June 2014 and thereafter spent a number of weeks in France before travelling to Ireland by boat and then onwards to Northern Ireland, where he was apprehended boarding a ferry to Scotland. He claimed asylum on the grounds of persecution in Mali. In summary, he claimed that he was a homosexual man, that his sexuality had not been tolerated

in Mali, that he had been attacked and forced to leave the country and that, if he returned, he would be attacked again. In December 2014, the Secretary of State refused his asylum claim. In a written decision of 6 November 2015, the First Tier Tribunal dismissed his asylum appeal. He was represented at the appeal by both solicitor and counsel.

[3] In January 2016, asylum support was terminated. The applicant failed to attend an appointment with immigration officials and was recorded as having absconded.

[4] On 6 June 2024, the applicant was encountered by immigration officials while working in a barber shop in Northern Ireland. He was arrested and remanded into custody on a number of charges including working illegally in the UK and possessing false identification documents. He was convicted and sentenced to four months' imprisonment.

[5] On 18 September 2024, he presented to immigration officials and was detained. During the period of detention, the applicant appears to have given fresh details about his personal history to officials. He informed them that he was actually from Ghana, rather than Mali. He also claims that he informed officials during these meetings with immigration officials that he wished to make a further asylum claim. It is not clear how much detail was provided to officials at that time. However, whatever oral exchanges took place, his claim was not formulated in writing. On 30 September 2024, he was granted immigration bail by the First Tier Tribunal.

[6] On 29 September 2025, he was served with a Removal Notice, informing him that he would be removed from the UK to Accra, Ghana.

[7] On 2 October 2025, the applicant sent a pre-action letter to the Secretary of State contending that removal from the UK would amount to a breach of his rights to family life and private life under article 8 ECHR. He contended that he was in a long-term relationship with a named female from Northern Ireland who was a British national. He also relied upon the duration of his presence and residence in Northern Ireland. Along with the letter, the applicant submitted photographic and other evidence of the existence and duration of the relationship.

[8] On 7 October 2025, the Secretary of State wrote to the applicant rejecting the article 8 claim based upon private and family life. The letter stated in relevant part:

"12. ... Whilst you have provided some photographs and two letters of support, no letter of support has been provided by [the partner] confirming the relationship and details of the relationship and you have not provided any supporting evidence that is demonstrative that your client and his claimed partner are in a relationship which covers any period of time or evidence showing shared

financial responsibilities or any other evidence showing a genuine and subsisting relationship.”

[9] It was also determined that the article 8 claim did not enjoy realistic prospects of success and hence it was not a “*fresh claim*” within paragraph 353 of the Immigration Rules, with the result that the applicant did not have a right of appeal.

[10] At some point during the applicant’s detention, he received a care and custody medical assessment. A report dated 3 October 2025 was provided to the applicant’s legal representatives on 7 October 2025. It is evident from the report that the doctor was provided with the core facts upon which the applicant now relies for the purposes of his second asylum claim. In a response on the same day, the applicant’s legal representatives sent an email to the Secretary of State providing a written summary of the basis for the second asylum claim. These are set out in more detail below. On 8 October 2025, the applicant commenced urgent judicial review proceedings seeking, inter alia, interim relief to prevent his removal from the UK and to enable the second asylum claim to be considered.

[11] The proceedings crossed with the impugned decision. On 8 October 2025, the Secretary of State issued the impugned decision letter rejecting the second asylum claim on the merits. It was also decided that it did not amount to a “*fresh claim*” for the purposes of paragraph 353 of the Immigration Rules. While it was accepted that the new claim raised new issues, it was determined that they did not enjoy realistic prospects of success on appeal. The legal effect of the decision was that the applicant’s appeal rights came to an end and the Removal Notice remained in effect.

[12] In response to the application for interim relief, removal was suspended by consent pending the conclusion of these proceedings. An amended Order 53 statement was filed on 25 October challenging the decision of 8 October 2025. The challenge did not include an article 8 ECHR claim based upon the applicant’s relationship with the female from Northern Ireland which was relied upon in the pre-action letter.

[13] The leave hearing was postponed by consent on a number of occasions to enable the application to seek funding. The leave hearing was listed on Monday 20 April 2026. On the morning of the hearing the application was adjourned by consent. The applicant had given instructions over the course of the weekend that he had recently become engaged to the female and that he now wished to include an article 8 ECHR claim. The leave hearing was adjourned to enable the Secretary of State to consider the new facts. The hearing was re-listed on Monday 1 June 2026. No amendment was made during the interim period and at the outset it was confirmed on behalf of the applicant that he no longer wished to pursue the article 8 ECHR claim. The hearing therefore proceeded on the grounds proposed in the amended Order 53 statement dated 25 October 2025.

Relevant statutory provisions

[14] The key statutory provisions governing this challenge are section 82 of the Nationality, Immigration and Asylum Act 2002 ("the 2002 Act") and paragraph 353 of the Immigration Rules.

[15] Section 82 provides in relevant part as follows:

"(1) A person ("P") may appeal to the Tribunal where –

- (a) the Secretary of State has decided to refuse a protection claim made by P,
- (b) the Secretary of State has decided to refuse a human rights claim made by P, or
- (c) the Secretary of State has decided to revoke P's protection status.

(2) For the purposes of this Part –

- (a) a "protection claim" is a claim made by a person ("P") that removal of P from the United Kingdom –
 - (i) would breach the United Kingdom's obligations under the Refugee Convention, or
 - (ii) would breach the United Kingdom's obligations in relation to persons eligible for a grant of humanitarian protection;
- (b) P's protection claim is refused if the Secretary of State makes one or more of the following decisions –
 - (i) that removal of P from the United Kingdom would not breach the United Kingdom's obligations under the Refugee Convention;
 - (ii) that removal of P from the United Kingdom would not breach the United Kingdom's obligations in relation to persons eligible for a grant of humanitarian protection..."

[16] Paragraph 353 of the Immigration Rules provides in relevant part as follows:

“When a human rights or asylum claim has been refused and any appeal relating to that claim is no longer pending, the decision maker will consider any further submissions and, if rejected, will then determine whether they amount to a fresh claim. The submissions will amount to a fresh claim if they are significantly different from the material that has previously been considered. The submissions will only be significantly different if the content: (i) had not already been considered; and (ii) taken together with the previously considered material, created a realistic prospect of success, notwithstanding its rejection.”

Applicant's second asylum claim – 7 October 2025

[17] The applicant's evidence was that during his period of custody between June and September 2024, he explained his true personal circumstances to immigration officials and that he believed that by doing so he had made a second asylum claim. Contrary to his first asylum claim, the applicant now claims to be from Ghana and that he is heterosexual. The factual basis of his second asylum claim was provided in writing by his legal representatives on 7 October 2025 in the following terms:

“Mother was a business woman, (a trader). Other people in the community who were in the same trade hated her as her business was thriving much more than theirs. Fights would normally ensue, and the parents were targeted and eventually his mother was killed by members of the community on 28/6/2020. His father was also killed by the same people on 14/7/2020.

Other family members were also targeted including one of his uncles who was beaten, and he eventually lost his leg. Apart from physical attacks, he said that the community also used witchcraft and black magic (juju) on his family members and that they have sworn that they will kill him if he returns to Ghana, particularly since they believe that he is living an affluent life abroad and because of the enmity and hatred towards his family. He stated that he himself has also suffered persecution while in his home country.”

[18] Since his release on immigration bail on 30 September 2024, the applicant has attended all immigration appointments. He believed he was doing so because he had claimed asylum, rather than as a requirement of his immigration bail conditions.

Medical examination (2 October 2025) and report (7 October 2025)

[19] During his detention, the applicant underwent a care and custody medical assessment. The doctor recorded the following history from the applicant:

“He tells me that he grew up in Ghana and he was subject to abuse and torture within his community due to his mother’s position.

He describes her as being successful and doing well and, in these places, there was ‘demon witchcraft’ used against her due to her success. There was faith based on jealousy based prejudice towards him and his family. He finds it difficult to expand on this.

This was commonplace in the villages and in the communities of Ghana and due to their position, the community used witchcraft and within 14 days he lost both of his parents.

He claims he was beaten up by community members for this same hatred against him and his family. They were all hunted.”

[20] During a physical examination, the doctor noted “scar to his face – above the right eye.” Under the heading of “Assessment”, the doctor recorded:

“He claims he was tortured in Ghana due to his family’s position and success.

His narrative appears consistent with his injuries in my opinion as a GP. He has no acute physical disability in the detention centre that I am aware of which impacts him being in the centre. He has no acute psychiatric condition that impacts detention, however, he does have significant mental distress from this episode and he will be referred to the mental health team as per protocol to be assessed by them. ...” [emphasis added]

[21] The medical assessment was shared with the applicant’s legal representatives on 7 October 2025. It is now relied upon as corroboration of his asylum claim and as the foundation for a claim that deportation to Ghana would be contrary to his rights under article 3 ECHR.

Impugned decision – 8 October 2025

[22] The Secretary of State rejected the applicant's second asylum claim. The reasons are set out in a detailed decision letter of 8 October 2025. The core reasoning may be summarised as follows:

- The conflicting factual basis of the applicant's asylum claim, when compared to the 2014 claim was noted. The failure to disclose these facts at an earlier date, despite several opportunities to do so, "significantly undermines" the overall account and suggests the second asylum claim was an attempt to delay or frustrate removal, rather than a genuine fear of persecution.
- The new facts put forward contained material differences from the 2014 claim and lacked cogency. For example, in his 2014 asylum claim, he stated that his father had been killed by Muslim militia men in Mali in 2014. He now claimed that his father was killed in July 2020. The lack of cogency cast doubt on the reliability of the claim. No further attempts had been made to clarify or resolve these inconsistencies.
- The threat of persecution appeared to emanate from non-state agents, rather than state officials. No corroboration of the threat of persecution had been provided from family members such as police or medical reports, witness statements or efforts to seek protection from the Ghanaian authorities.
- The Home Office Country Policy and Information Note ("CPIN") for Ghana does suggest that there may be "*rogue state actors and militia in Ghana*" but concludes that it is nonetheless a politically and socially stable country whose urban centres are populous and accessible. Freedom of movement is generally possible, albeit sometimes hindered by a lack of infrastructure or criminality. The overall guidance was that Ghana has a functioning legal system, a police service and judiciary which are "*in general, accessible and capable of offering effective protection. While corruption and inefficiencies are reported these are not indicative of systemic or institutional unwillingness to protect.*" It was therefore considered that the applicant had not sufficiently demonstrated that he would face persecution or serious harm from non-state actors nor that he would be unable to secure protection from the Ghanaian authorities. The possibility of relocation was also considered to be reasonable.
- The scarring noted during the medical assessment was considered to be consistent with the ill-treatment described but it did not amount to independent verification or confirmation of those events. The clinician had recognised that alternative causes for the physical or psychological findings could not be ruled out.
- The applicant was not diagnosed as suffering from any mental illness. He was suffering from "*significant mental distress.*" The objective country

information confirmed that both mental health and psychological treatment are available and accessible in Ghana. It was acknowledged that the quality varied and that rural areas faced limitation but both psychiatric and psychological services were available, particularly in urban centres. The medical assessment was not considered to provide sufficient evidence of suffering required to reach the threshold required for a breach of article 3 ECHR, if returned to Ghana.

- Overall, it was considered that the applicant had not demonstrated that he would face a real risk of persecution, serious harm or ill-treatment on a return to Ghana and that the available evidence did not support a real risk of breach of article 3 ECHR.
- The second asylum claim did not create a realistic prospect of success in an appeal before an immigration judge for the purposes of paragraph 353 of the Immigration Rules. It was not considered that the applicant had demonstrated, even to a lower standard of proof, that he had an objectively well-founded fear of persecution or serious harm in Ghana, capable of success on appeal. Accordingly, it was held that the second asylum claim did not amount to a “fresh claim” with the result that he had no right of appeal to the First Tier Tribunal.

Grounds of challenge

[23] The applicant relies upon four grounds of challenge:

- (i) illegality;
- (ii) article 3 ECHR;
- (iii) irrationality;
- (iv) duty of inquiry.

Illegality – paragraph 353 the Immigration Rules

[24] The impugned decision of 8 October 2025 included a decision to refuse the second asylum claim on the merits. Pursuant to section 82 of the 2002 Act, a person has a statutory right of appeal to the First Tier Tribunal where the Secretary of State has decided to refuse a “*protection claim*.” A “*protection claim*” is a claim that removal from the United Kingdom would breach its obligations under the Refugee Convention (section 82(2)(a)).

[25] Pursuant to Article 1(A)(2) of the Refugee Convention, a refugee is defined to mean a person who is unable or unwilling to return to the country of their

nationality by reason of a “*well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion.*”

[26] Sections 30-38 of the Nationality and Borders Act 2022 (“the 2022 Act”) prescribe the principles which decision-makers and courts must apply when interpreting and applying obligations arising under the Convention. Section 31 defines the concept of “*persecution*” and includes an act of “*physical or mental violence*” (section 31(3)), which is sufficiently serious by its nature or repetition (section 31(2)) and which is perpetrated by agents of the state, parties or organisations controlling the state or a substantial part of it or a non-state actor, if it can be demonstrated that the state or those controlling it are unable or unwilling to provide reasonable protection against persecution (section 31(1)). A “*well-founded fear*” will arise where it is demonstrated on the balance of probabilities that the asylum seeker has a characteristic which would cause them to fear persecution for a Convention reason and that they do in fact fear such persecution as a result of that characteristic. There must be a “*reasonable likelihood*” that, if returned they would be persecuted as a result of the characteristic and that they would not be protected (section 32). For the purposes of the Convention, a person will form part of a “*social group*” if the members of that group share an innate characteristic, a common background that cannot be changed or a characteristic or belief that is fundamental to their identity or conscience. The group must also have a distinct identity within the relevant country because it is perceived as being different (section 33). An asylum seeker will not have a well-founded fear of persecution if they can reasonably be expected to relocate internally within the country to a part in which their fears of persecution would not be well-founded (section 35).

[27] It is clear from the decision letter that the Secretary of State correctly identified the potential source of persecution to be non-state actors. In the absence of a negative determination, the Secretary of State also appears to have been prepared to assume that the applicant was a member of a “*social group*” for the purposes of the Convention, namely his broader family group, which he claimed was subject to threats of violence.

[28] Pursuant to section 32(4) of the 2022 Act the test is whether the asylum seeker can demonstrate there is a “*reasonable likelihood*” of persecution on account of their membership of the relevant grouping. This provision gives statutory force to the well-recognised test established in *R v SOSHD, ex p Sivakumaran* [1988] AC 958. This is recognised as involving a lower standard of proof than the balance of probabilities. In *MAH (Egypt) v SOSHD* [2023] EWCA Civ 216 the test was described as involving an “*assessment of risk.*” It was not necessary for the claimant to establish a 51% chance of persecution. All of the facts and circumstances had to be considered and in some cases a 10% change may be sufficient (per Singh LJ, at [51]).

[29] At paragraphs 14-18 of the decision letter, it is clear that the Secretary of State analysed all of the relevant evidence and materials put forward by the applicant. It was not submitted that the analysis or summary was mistaken. The analysis

included a recognition of the complete change in the factual basis for the second asylum claim, inconsistency of detail (eg date of father's death), the lack of corroborative evidence to support the existence of the new threat and the lack of any evidence from Ghana in the form of police or other reports. Reliance was also placed upon the applicant's absence from Ghana since 2014. While it is clear from the decision letter that these factors were noted, it is also clear that they were not determinative. The dispositive reasoning in the letter appears to be an assessment about the adequacy of the legal protection available in Ghana and the possibility of relocation. This is evident from paragraph 19 onwards which set out relevant portions of the Home Office CPIN for Ghana. They explain the political stability of the country, refer to the existence of a functioning legal system, police service and judiciary and conclude that they are, in general, accessible and capable of offering effective protection. Relying on the content of the CPIN, the decision letter also refers expressly to the reasonableness of relocation to major urban centres such as Accra or Kumasi in which it was considered that these provided a safe and reasonable alternative, in light of the localised nature of the threat. Accordingly, the decisive reasoning for rejecting the asylum claim was the possibility of relocation and the effectiveness of legal protection provided by the police and justice system in Ghana.

[30] There was no dispute between the parties that the appropriate standard of review of an asylum decision which engages an applicant's rights under the Refugee Convention, is anxious scrutiny. While the Secretary of State noted issues of credibility, inconsistency and evidential gaps in the second asylum claim, no positive finding was made that the facts relied upon were untrue and no challenge was made to either the understanding of the facts or the assessment made. The decisive reasoning was based upon the CPIN guidance in relation to Ghana which was prepared and published precisely for the purposes of making assessments of this nature. No evidence was adduced to the Secretary of State or before this court to undermine the content of the advice on the issue of the effectiveness of the justice system, the ability of the state to provide protection or the reasonableness of relocation to an urban centre to avoid any risk posed by non-state actors. The decision reached was therefore entirely in accordance with the evidence submitted by the applicant and which was otherwise available to the Secretary of State. Accordingly, even applying a heightened standard of anxious scrutiny, it is not arguable that the Secretary of State failed to apply the correct legal approach to the merits of the second asylum claim or reached a conclusion which was irrational or otherwise unsustainable.

[31] In addition to rejecting the second asylum claim on the merits, at paragraphs 40(i)-(iv), the Secretary of State also decided that it was not a fresh claim, pursuant to paragraph 353 of the Immigration Rules. The new facts were noted, however, it was also decided that they did not create a "*realistic prospect of success*" on appeal. Accordingly, they did not amount to a fresh claim to which the statutory right of appeal under section 82 of the 2002 Act applied.

[32] The principles governing a review of a decision under paragraph 353 have been the subject of many previous decisions. In *WM (DRC) v SOSHD* [2006] EWCA Civ 1495, Buxton LJ identified the following two questions which the decision maker must address. This approach has been followed in many subsequent cases:

“[11] First, has the Secretary of State asked himself the correct question? The question is not whether the Secretary of State himself thinks that the new claim is a good one or should succeed, but whether there is a realistic prospect of an adjudicator, applying the rule of anxious scrutiny, thinking that the applicant will be exposed to a real risk of persecution on return ... The Secretary of State of course can, and no doubt logically should, treat his own view of the merits as a starting-point for that enquiry; but it is only a starting-point in the consideration of a question that is distinctly different from the exercise of the Secretary of State making up his own mind. Second, in addressing that question, both in respect of the evaluation of the facts and in respect of the legal conclusions to be drawn from those facts, has the Secretary of State satisfied the requirement of anxious scrutiny? If the court cannot be satisfied that the answer to both of those questions is in the affirmative it will have to grant an application for review of the Secretary of State’s decision.”

[33] These principles have been applied in this jurisdiction in *Re Zhang* [2017] NIQB 92 (McCloskey J); *Re Chudron* [2019] NICA 9 (Court of Appeal); *Re Huang* [2023] NIKB 73 (Colton J) and *Re JR 300* [2024] NIKB 94 (Scofield J).

[34] In this case, the Secretary of State assessed that an appeal would not have realistic prospects of success because an immigration judge would consider that the applicant’s asylum claim lacked credibility and corroborative evidence about the threat of attack. It was also assessed that, even if the factual basis for the claim was accepted, the judge would apply the CPIN guidance for Ghana and conclude that sufficient protection would be available under the Ghanaian justice system to provide protection against non-state actors who may persecute him. It was acknowledged that the CPIN guidance contained a recognition that there may be instances of police inefficiency or corruption in Ghana, but it was considered that this did not demonstrate a systematic unwillingness to protect. Accordingly, it was decided that an immigration judge would nevertheless rely upon the CPIN guidance and conclude that sufficient protection from persecution by non-state actors was available. Similarly, it was decided that an immigration judge would regard the possibility of internal relocation as a means of avoiding the risk of persecution was not unduly harsh or unreasonable for the applicant.

[35] Applying a test of anxious scrutiny, it is entirely clear to me that the Secretary of State's assessment of the likely approach of an immigration judge was a justifiable and appropriate one. It was based squarely upon the likelihood that the judge would apply the UK CPIN guidance in relation to the state of Ghana on these issues. That guidance has not been challenged or otherwise criticised in these proceedings on the issue of the effectiveness of the police and justice system. In those circumstances, it is entirely predictable that the immigration judge would approach the claim in the same manner and would also reach the same conclusion on the availability of protection from persecution within Ghana and the possibility of relocation. These are issues which the judge would be required by sections 31 and 35 of the 2022 Act to address and, on the basis of the available information, there is no realistic prospect that an immigration judge would adopt any other approach or reach any other conclusion.

[36] While it did not form part of refusal reasons or the paragraph 353 decision, it is of note that it might have been open to the Secretary of State to certify the asylum claim as "clearly unfounded" pursuant to section 94(1) of the 2002 Act, insofar as it related to a claim of persecution by a man entitled to reside in Ghana. Certification may have been a possibility on the basis that Ghana is one of the countries listed within section 94(4) which are recognised as having a sufficient justice system to provide protection. If such a certification had been made, the loss of appeal rights under section 82 would have followed in any event (per section 94(3A), 2002 Act). In the event, a reasoned conclusion to the same effect was reached.

[37] For all of the above reasons and applying a test of anxious scrutiny, I am satisfied that the Secretary of State did not misapply or otherwise misunderstand the legal test when rejecting the second asylum claim or when assessing its prospects of success for the purposes of paragraph 353 of the Immigration Rules. Accordingly, I am satisfied that this proposed ground of challenge is not arguable nor does it enjoy reasonable prospects of success. Accordingly, this proposed ground of challenge must fail.

Article 3 ECHR

[38] The applicant also contends that removal to Ghana would give rise to a real risk that he would be subject to treatment, contrary to article 3 ECHR on the basis of his need for mental health treatment, for which there was inadequate provision in Ghana.

[39] The test for determining whether a removal would contravene article 3 ECHR on the ground of inadequate healthcare was expressed by the Supreme Court in *AM (Zimbabwe) v SOSHD* [2020] UKSC 17. It adopted the test established by the Grand Chamber in *Paposhvili v Belgium* [2017] Imm AR 867. The test is whether a claimant has adduced sufficient evidence to demonstrate that there were substantial grounds for believing that, although not at imminent risk of dying, he/she would face a real risk, on account of the absence of appropriate medical treatment in the receiving

state or lack of access to such treatment, of being exposed to (i) a serious, rapid and irreversible decline in his state of health resulting in intense suffering; or (ii) a significant, meaningful, substantial reduction in life expectancy. Lord Wilson emphasised the high threshold required and the narrow category of cases in which an article 3 breach might arise. He stated:

“[32] ... the requisite capacity of the evidence adduced by the applicant is to demonstrate ‘substantial’ grounds for believing that it is a ‘very exceptional’ case because of a ‘real’ risk of subjection to ‘inhuman’ treatment ...”

[40] The article 3 claim in this case was founded upon the treatment the applicant would likely receive for his mental health if returned to Ghana. It is founded exclusively upon the medical report dated 2 October 2025 which was prepared following the care and custody medical assessment conducted while in detention. The applicant adduced no other evidence of a mental health condition nor evidence of any treatment which he had received for such a condition either before or since his arrival in the UK. The report of 2 October states that the applicant “... *has no acute psychiatric condition that impacts detention, however, he does have significant mental distress from this episode and he will be referred to the mental health team as per protocol to be assessed by them ...*” The applicant was therefore diagnosed as suffering from distress as a result of the episode of detention, rather than from a psychiatric condition.

[41] The Secretary of State concluded that the evidence did not reach the threshold required to give rise to a real risk of a breach of article 3. At paragraph 44 of the decision letter, it was also concluded that an immigration judge would reach the same conclusion. On the basis of the CPIN guidance for Ghana, it was also concluded that mental health care would be available in Ghana, particularly in major urban centres, notwithstanding that the standards and availability may vary throughout the country.

[42] In the course of this challenge, the applicant adduced further evidence about the adequacy of the health care provision in Ghana. It included an assessment of mental healthcare in Ghana which was carried out by the National Library of Medicine, together with a World Health Organization study on mental healthcare conditions and standards and a report by Human Rights Watch. All of these reports highlighted varying standards and substantial deficiencies in the standards of mental healthcare, which was available in many parts of Ghana, particularly rural areas. Underfunding was highlighted as a particular problem. Nevertheless, they did recognise that mental health facilities and treatment were available in hospitals and clinics, particularly in urban areas.

[43] The Secretary of State concluded that an immigration judge would find that notwithstanding the gaps in care, mental health treatment would be available in Ghana for the applicant.

[44] Applying a test of anxious scrutiny, I do not consider that the applicant has raised an arguable case that either the substantive article 3 decision or the paragraph 353 decision were incorrect. The starting point must be the medical condition of the applicant and risks to his health which might arise if he is returned. The single medical report relied upon identified him as suffering from “*significant mental distress from this episode*”, rather than an underlying psychiatric or other mental health condition. On any standard of assessment, the evidence adduced by the applicant could not be said to demonstrate substantial grounds for believing that this was one of the very exceptional cases in which there was a real risk that his suffering would reach the threshold of an article 3 breach, as described in the *Zimbabwe* case. There can be no plausible argument that, in the light of this evidence, the Secretary of State’s assessment of the likely approach of an immigration judge was even arguably wrong. The evidence of deficiencies in the Ghanaian healthcare provision for mental health services therefore adds little to the overall assessment. Nevertheless the conclusion reached that care would be available in major cities is not inconsistent with those reports. It is clear to me that there is no realistic prospect that those reports would lead an immigration judge to reach any alternative conclusion.

[45] For all of the above reasons, the claim that removal would be contrary to article 3 is simply not arguable and does not enjoy reasonable prospects of success. This ground of challenge must therefore be dismissed.

Irrationality and duty of inquiry

[46] The applicant contends that the absence of any reference within the decision letter to the reports of inadequacies in the Ghanaian mental health services, points to a failure to take account of a material consideration and a failure to gather the evidence necessary to decide the case. It is well established that the *Tameside* duty of inquiry requires the decision-maker to ask the correct legal question and to gather the information which it considers to be reasonably necessary to determine the relevant issue. It is not an absolute duty to secure all information which might later be considered to be of assistance. It is for the decision maker, not the court, to decide on the intensity of the inquiry and, in the absence of statutory constraints, to decide upon the considerations which are material to the decision, subject to rationality review. A decision should only be struck down on this ground if no reasonable decision maker could have concluded that the available information was sufficient for the purposes of the decision (See *R(Plantagenet Alliance v Secretary of State* [2015] 3 All ER 261, at [100] – [101])

[47] In this case, the additional reports might have highlighted some additional information about deficiencies in the Ghanaian healthcare system. However, they do not address the prior and fundamental question about the existence, nature and severity of the applicant’s underlying medical condition. The adequacy of the Ghanaian healthcare system is therefore only relevant for article 3 purposes if the

underlying medical condition is such that the absence of care could give rise to a real risk of a breach of article 3. In this case, it is not arguable that the Secretary of State's conclusion on the severity of the medical condition was wrong, in light of the evidence. It was perfectly reasonable for the Secretary of State to rely upon this evidence and the *Tameside* principle cannot require the conduct of a further full medical or mental health assessment of the applicant. The Secretary of State discharged any duty of inquiry into his mental health by means of the care and custody medical assessment. The Secretary of State was entitled to rely upon the report, which did not reasonably reveal any medical basis to suggest that deportation would give rise to a real risk of an Article 3 breach. While it did identify that the applicant would be referred to the mental health team in relation to the distress which was evident in October 2025, there was nothing to suggest his condition was anywhere close to the Article 3 threshold or that further medical assessment was necessary to determine that question. Distress is not to be unexpected for an individual facing removal from the UK, particularly when they have been detained for that purpose and had been living in the UK for a substantial period of time. In the absence of any evidence of the applicant suffering from a medical condition which might meet the threshold explained in the *Zimbabwe* case, it was plainly open to the Secretary of State to rely upon the CPIN guidance rather than conducting further primary research about the healthcare system or commissioning a further bespoke mental health assessment.

[48] In the circumstances, the failure to refer to these additional reports cannot be regarded as a failure to take account of a material consideration. The Secretary of State clearly considered the deficiencies in the Ghanaian healthcare system. Nor is it arguable that there was a breach of the duty of inquiry either about the applicant's medical condition or the Ghanaian system. The Secretary of State was entitled to decide on the extent of inquiries necessary. The deficiencies in the healthcare system were sufficiently identified and the evidence relied upon was sufficient for the purposes required for this decision. As regards the applicant's medical condition, it is of note that, even before this court, the applicant has adduced no further evidence of any psychiatric or psychological condition, nor of any diagnosis which emerged from the mental health referral in October 2025 which might now alter the conclusions on article 3. During a large portion of that time, the applicant has had the benefit of immigration bail and thus the opportunity to obtain further medical evidence if it had been considered appropriate. Accordingly, it is not arguable that the Secretary of State left out of account a material consideration or failed to conduct sufficient inquiries. The proposed grounds of challenge are not arguable and do not enjoy reasonable prospects of success.

[49] For all of the above reasons, all proposed grounds of challenge do not reach the threshold for the grant of leave and the application for leave to apply for judicial review must be dismissed.