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# High Court refuses permission for judicial review of the decision to give £1Billion to the DUP by the Conservative Government to prop them up in power

*The Queen (Ciaran McClean) v. First Secretary of State and Her Majesty's Attorney General*
*High Court of Justice, Divisional Court Case no: CO/3320/2017*

## Article by David Bowden

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**Executive speed read summary**

**Following the 8 June 2017 General Election, the Conservative Party was 8 seats short of a majority. On 26 June 2017 it entered into 2 linked agreements with the Democratic Unionist Party ('DUP') who won 10 seats. The first was a confidence and supply agreement in which the DUP agreed to support the Government on key votes. The 2nd was a financial support agreement in which £1billion of additional funding was to be made available to Northern Ireland over the next 5 years. Mr Ciaran McClean is a member of the Green Party in Northern Ireland. Mr McClean raised nearly £100k by crowd funding to bring a court challenge by way of judicial review. Mr McClean submitted that the deal with the DUP was corrupt, represented a bribe and sought to undermine the impartiality of MPs to vote in the best interests of their constituents. Mr McClean said the arrangement was unlawful in the same way that the '*homes for votes'* policy of Westminster Council was found to be unlawful 16 years ago by the House of Lords. The Government maintained there was nothing untoward in the DUP arrangement and that a confidence & supply agreement enabled the UK to maintain stable government after the 2017 election returned a hung parliament. It also said the £1billion extra for Northern Ireland was not (as it appear in the press coverage which followed the conclusion of the DUP deal on 26 June 2017) money which would immediately flow out of the door to Northern Ireland. Instead the extra money would have to be approved by Parliament following a debate and a vote under the usual 'Estimates' process. Although the DUP deal commits DUP MPs to voting in a certain way, there is no such corresponding obligation on Conservative MPs. The Divisional Court has heard argument as to whether to grant permission over nearly 3 hours on 26 October 2017. It has refused permission on the ground that whether Northern Ireland gets this funding will in fact be subject to a debate and vote in the House of Commons during the 'Estimates' process. It is not clear whether Mr McClean will try and renew his application before the Court of Appeal.**

*The Queen on the application of Ciaran McClean v. Secretary of State for Northern Ireland and the Cabinet Office*
*High Court of Justice, Queen's Bench Division, Divisional Court Case number: CO/3320/2017*
*The Right Honourable Lord Justice Philip Sales and Mr Justice Lewis*

**What are the facts?**

In April 2017 the Conservative Party held a majority in the House of Commons and formed the government with Mrs Theresa May as Prime Minister. On 18 April 2017 Mrs May called a snap general election which was then held on 8 June 2017. The Conservative Party won only 318 seats in that election out of the 650 available seats in the House of Commons. It was 8 seats short of a majority. However the DUP won 10 seats in constituencies in Northern Ireland. On 26 June 2017 the Conservative Party concluded an agreement with the DUP. There were in fact 2 agreements. The first was a confidence and supply agreement whereby the DUP would support the Conservative Party on key votes. The seconds was a financial support agreement whereby the UK Government would make available to Norther Ireland an additional £1billion of funding. This enabled a minority Conservative Government to cling on to power.

**What arrangements were made with the DUP following the 2017 General Election?**

Following the 2017 General Election, these 2 documents were drawn up and agreed between the Conservative Party and the Democratic Unionist Party ('DUP'):

- Agreement between the Conservative and Unionist Party and the Democratic Unionist Party on support for the Government in Parliament – 3 pages ('*Confidence and Supply Agreement'* or 'CSA'), and
- UK Government Financial Support for Northern Ireland – 3 pages ('*Financial Support Agreement*' or 'FSA').

**What does the '*Agreement between the Conservative and Unionist Party and the Democratic Unionist Party on Support for the Government in Parliament'* say?**

The Confidence and Supply Agreement provides that the DUP '*agrees to support the Government on all motions of confidence; and on the Queen's speech; the Budget; finance bills; money bills, supply and appropriation legislation and Estimates'*.

In return the Financial Support Agreement provides that:

- '*the UK Government will allocate £200m per year for 2 years'* to enable the Northern Ireland Government to '*deliver the York Street interchange project and other priorities'*.
- It promises £75million per year for 2 years to pay for '*ultrafast broadband for Northern Ireland'*.
- It also gives £20m a year for 5 years to '*support the Northern Ireland Executive'* in order to '*target pockets of severe deprivation'*.
- The magic money tree also has £50m a year for 2 years '*to address immediate priorities in health and education'*.
- The golden leaves from this tree also have £100m a year for 2 years '*to support the Northern Ireland's Executive delivery of its priority of health service transformation'.*
- Finally there is £10m for 5 years to deliver measures on mental health.

**Has permission been granted to bring this judicial review?**
This was a hearing just to decide if permission should be granted or not.

**Who is Mr McClean?**
Mr McClean is a mental health worker and Green Party member in Northern Ireland. He has campaigned for peace in Northern Ireland. He says that he wishes '*to hold the Government to account for their actions through the Courts in a judicial review*' and that his '*claim is that as a citizen I expect my Government to honour its obligations under the Good Friday Agreement and not to bribe others with money so that it can stay in power*'.

**What were the grounds for seeking this judicial review? What issue(s) were before the court?**
Mr McClean says that the court has to decide these 4 legal issues:

- Does the Financial Support Agreement commit the UK Government to expend public money for an improper, and so unlawful, purpose thereby constituting a misuse of the Government's public expenditure powers?
- Can expenditure under the Financial Support Agreement be validly authorised through the Estimates process under standard procedures?
- Is the claim non-justiciable on account of Parliamentary privilege?
- Does the Financial Support Agreement involve the commission of an offence under the Bribery Act 2010?

He says the court has to resolved only 2 questions of evidence, namely:

- Is party political advantage the true purpose of the spending commitments contained in the Financial Support and Confidence & Supply Agreements?
- Did the UK Government intend that the spending commitments would induce DUP Members of Parliament to vote in a particular manner in the House of Commons?

**What declaration was the court being ordered to make?**
Mr McClean in his Claim Form seeks these 6 declarations:

- The Financial Support Agreement makes provision for the expenditure of public funds for an improper and unlawful purpose,
- The Financial Support Agreement is unlawful as it involves the commission of an offence under the Bribery Act 2010,
- By the Financial Support Agreement, the UK Government offered financial advantages to the DUP with the intention that such advantages would induce DUP Members of Parliament to perform improperly their function of voting in the House of Commons,
- The UK Government does not have power to expend any monies contemplated by the Financial Support Agreement in the absence of an Act of Parliament which specifically approves the true purpose of the expenditure,
- Absent a valid Parliamentary authorisation, any departmental request for public funds pursuant to the Financial Support Agreement is unlawful or ineffective, and
- Absent valid Parliamentary authorisation, the Secretary of State cannot lawfully determine under section 58 of the Northern Ireland Act 1998 that any monies intended to be spent under the Financial Support Agreement be paid into the Consolidated Fund of Northern Ireland.

**Which solicitors represented the parties?**
Mr David Greene of Edwin Coe of Lincoln's Inn in London represents Mr Ciaran McClean.

The Treasury Solicitor acts for the First Secretary of State and HM Attorney General.

**Which counsel represented the parties?**
Mr Dominic Chambers QC of Maitland Chambers acted for Ciaran McClean. Mr Chambers was counsel for Senor dos Santos in the Brexit litigation and was successful in both the High Court and Supreme Court. He led a team which comprised John Cooper QC (of Crown Office Chambers) and Edward Granger also of Maitland Chambers.

The case on behalf of the First Secretary of State was presented the First Treasury Counsel, Mr James Eadie QC of Blackstone Chambers. He led a team which comprised Jason Coppel QC and Sean Aughey both of 11 King's Bench Walk. Surprisingly given that he is a party, the present Attorney-General, the Right Honourable Jeremy Wright QC MP (a Birmingham criminal barrister) was neither in court nor was his name on the skeleton argument

**How was this case funded?**
At the moment UK taxpayers have to pay for the costs incurred by the First Secretary of State and HM Attorney General. Mr McClean is crowdfunded using the Crowd Justice portal – www.crowdjustice.com/case/challenge-dup-deal/. At the date of writing this piece he had raised £91,915 by way of pledged contributions from 4163 people of his stretch target of £100k. These funds are to cover not just his own costs but those of the Government in the event that he is not successful.

**What does the Bribery Act 2010 say?**
This Act received Royal Assent on 8 April 2010 and these provisions are relevant.
Section 1 sets out the '*Offences of bribing another person*':

> *'(1) A person ("P") is guilty of an offence if either of the following cases applies.*
> *(2) Case 1 is where—*
> *(a) P offers, promises or gives a financial or other advantage to another person, and*
> *(b) P intends the advantage—*
> *(i) to induce a person to perform improperly a relevant function or activity, or*
> *(ii) to reward a person for the improper performance of such a function or activity.*
> *….*
> *(4) In case 1 it does not matter whether the person to whom the advantage is offered, promised or given is the same person as the person who is to perform, or has performed, the function or activity concerned*.'

Section 3 deals with '*Function or activity to which bribe relates'* and says that '*for the purposes of this Act a function or activity is a relevant function*' if it is '*any function of a public nature'*. Section 5 goes on to set out the '*Expectation test'* in these terms:

> *'(1) For the purposes of sections 3 and 4, the test of what is expected is a test of what a reasonable person in the United Kingdom would expect in relation to the performance of the type of function or activity concerned.*
> *(2) In deciding what such a person would expect in relation to the performance of a function or activity where the performance is not subject to the law of any part of the United Kingdom, any local custom or practice is to be disregarded unless it is permitted or required by the written law applicable to the country or territory concerned.*
> *(3) In subsection (2) "written law" means law contained in—*
> *(a) any written constitution, or provision made by or under legislation, applicable to the country or territory concerned, or*
> *(b) any judicial decision which is so applicable and is evidenced in published written sources'*.

**What is the *Porter v. Magill* case? Why is this relevant?**
In the local government elections in May 1986 the Conservative Party retained control of Westminster City Council with a much reduced majority. In the belief that home owners were more likely than council tenants to vote Conservative, Dame Shirley Porter (the leader of the council) and her deputy leader formulated a policy to sell 250 council properties a year in 8 marginal wards. Following legal advice that such targeted sales would be unlawful, the policy was revised to extend designated sales to 500 across the city while maintaining the target of 250 sales in the marginal wards.

On a final appeal to the House of Lords, it unanimously ruled that this was wrong - **[2001] UKHL 67**. It said that a public power given to a local authority might only be exercised for the public purpose for which it had been conferred and those who exercised such a power otherwise misconducted themselves. Where such a person acted knowingly or recklessly they were guilty of wilful misconduct and were liable

to make good to the local authority any consequent loss. Although councillors did not act improperly or unlawfully if, exercising a power on behalf of a council for its proper purpose, they hoped to obtain the electorate's support and they might lawfully support party policy so long as they did not abdicate responsibility to exercise personal judgment. However powers conferred on a local authority might not lawfully be exercised to promote the electoral advantage of a political party. The council could not dispose of property to promote the electoral advantage of any party represented on the council.

**Are there any other prior authorities of relevance?**
These authorities are relevant in this case and mentioned in either the written or oral arguments. They are listed chronologically:

*Regina (Smedley) v. HM Treasury* **[1985] QB 657** (Court of Appeal **-** Donaldson MR, Slade and Lloyd LJJ)
Whilst Parliament was entirely independent of the courts in its freedom to enact Parliamentary legislation, subordinate legislation such as by Order in Council was subject to a degree of judicial control in that it was within the jurisdiction of the courts to hold that particular examples were not authorised by statute or by the common law and so were without legal effect. Here notwithstanding that no Order in Council in the terms of the draft had yet been made or could be made, it was proper for the court to consider the questions of law which would arise if Parliament were to approve the draft and that such consideration would not involve any usurpation or encroachment upon the functions of Parliament. The legislature and the judiciary are independent of one another and it is necessary for the courts to observe the paramount need to refrain from trespassing upon the province of Parliament.

*Regina (Fire Brigades Union) v. Secretary of State for the Home Department* **[1995] 2 AC 513** (House of Lords - Lords Keith, Browne-Wilkinson, Mustill, Lord and Nicholls)
section 171(1) of the Criminal Justice Act 1988 imposed a continuing obligation on the Secretary of State to consider whether to bring the statutory scheme in sections 108 to 117 into force. He could not lawfully bind himself not to exercise the discretion conferred on him. The tariff scheme was inconsistent with the statutory scheme. The Secretary of State's decision not to bring sections 108 to 117 into force and to introduce the tariff scheme in their place had been unlawful.

*Regina (Simms) v. Home Office* **[2000] 2 AC 115** (House of Lords - Lords Browne-Wilkinson, Steyn, Hoffmann, Hobhouse and Millett)
Parliamentary sovereignty means that Parliament can, if it chooses, legislate contrary to fundamental principles of human rights. The constraints upon its exercise by Parliament are ultimately political, not legal. But the principle of legality means that Parliament must squarely confront what it is doing and accept the political cost. Fundamental rights cannot be overridden by general or ambiguous words. This is because there is too great a risk that the full implications of their unqualified meaning may have passed unnoticed in the democratic process. In the absence of express language or necessary implication to the contrary, the courts therefore presume that even the most general words were intended to be subject to the basic rights of the individual. In this way the UK courts, though acknowledging the sovereignty of Parliament, apply principles of constitutionality little different from those which exist in countries where the power of the legislature is expressly limited by a constitutional document.

*Financial Services Authority v. Rourke* **[2002] CP Rep 14** (High Court, Chancery, Neuberger J)
The court's power to grant a declaration was unfettered and set out in CPR part 40.20. The court had to consider whether it was appropriate in all the circumstances to make an order, taking into account justice to both parties, whether the declaration would serve a useful purpose and whether there are any other special reasons. The defendant's argument against the court exercising its discretion was that it was inappropriate to grant a declaration in a civil matter where there were also potential criminal proceedings. Here however what was sought was merely a declaration as to events, not as to criminal activity as such and any declaration would not inhibit criminal proceedings.

*Regina (Rusbridger) v. Attorney General* **[2003] UKHL 38** (House of Lords - Lords Steyn, Hutton, Scott, Rodger and Walker)
A court might as a matter of judgment hold that exceptional circumstances made it proper for a member of the public to bring proceedings against the Crown for a declaration that certain proposed conduct was lawful and to name the Attorney General as the formal defendant to the claim. However no purpose would be served by requiring the courts to accommodate unnecessary litigation seeking a formal declaration and that accordingly the claimants' application might be categorised by reason of the constitutional import as being exceptional, the claim for a declaration would be dismissed.

*Regina (Rose Gentle) v. Prime Minister* **[2005] EWHC 3119** (High Court, Admin Ct, Collins J)
The threshold for deciding whether a claim for judicial review is arguable is a low one. However, arguable does not simply mean that a claim can be the subject of a well-reasoned argument. Only if there is a real prospect of success, will the claim be arguable. The test is therefore the same as that applied by the Court of Appeal when deciding whether to grant permission to appeal.

*Regina v. Chaytor* **[2010] UKSC 52** (Supreme Court – Lord Phillips PSC, Lord Hope DPSC, Baroness Hale, Lords Rodger, Brown, Mance, Collins, Kerr, Clarke JJSC)
It is for the court, paying regard to the views of Parliament and other authoritative bodies, but not Parliament itself, to determine the scope of parliamentary privilege whether under article 9 of the Bill of Rights 1689 or the exclusive cognisance of Parliament. Article 9 is primarily directed to freedom of speech and debate in the Houses of Parliament and in parliamentary committees where the essential business of Parliament took place and the article only applied to parliamentary proceedings. The exclusive cognisance of the Houses of Parliament to regulate their own affairs could be waived or relinquished by Parliament and extensive inroads had been made into areas previously within the exclusive cognisance of Parliament.

**What was the written argument that Mr McClean made?**
Mr McClean says he challenges both the decision to enter into the CSA and also to make the spending commitments contained in the FSA. If permission to bring a judicial review had been granted, paragraph 8 of his skeleton argument laid the ground for issuing a summons to compel the Prime Minister, Mrs May, to attend for cross-examination. Mr McClean said he had only 2 grounds for seeking a judicial review. Firstly that public money had been spent for an improper purpose and secondly that an offence of bribery had been committed under the Bribery Act 2010.

Mr McClean submitted that the UK Government had '*committed itself to spend £1billion of taxpayers' money purely in order to service the political expediency of the Conservative Party'*. Mr McClean said what had happened with the DUP fell all four square with the facts and outcome in *Porter v. Mc Gill*. He stressed that both cases involved '*the misuse of public resources to purchase votes*' and the CSA/FSA purported '*to be something that it is not'*. Mr McClean said the reference in the FSA to '*the unique circumstances of Northern Ireland's history*' was merely a '*cloak to give apparent legality'* to it. He went on to allege that the FSA was an '*example of political corruption'*.

Mr McClean submits correctly that the UK Government can spend public money '*only if authorised to do so by Parliament*' and that it was '*clear that as of today'* that Parliament had '*not authorised the spending of any sums for the purpose of securing*' the DUP's support. He went on to submit that expenditure of funds with '*the obvious primary purpose of party political advantage'* can '*never*' be authorised through the Parliamentary Estimate's procedure. Mr Clean says that the CSA/FSA was '*corrupt when it was made, and it remains corrupt*' today. He says that it '*cannot be right that Ministers are able to laid a set of political bribes on to the financial vehicle'* being the same vehicle by which they '*hope to secure Parliamentary authorisation for that improper purpose*'.

Mr McClean submits that Parliamentary privilege does not '*prevent criminal proceedings being taken against MPs who are bribed to act in a particular way*'. As to the Bribery Act 2010, Mr McClean maintains that the DUP obtains 2 advantages from the Government – not only the £1billion under the FSA but also participation in a co-ordination committee. He says that relevant function is the DUP voting in the House of Commons. Mr McClean says that MPs are under a '*pre-existing duty to vote in good faith*' and that will be '*in breach of the expectation that they cast their votes'* in good faith '*whenever they vote with the purpose of complying with*' the CSA/FSA which '*on its face is corrupt'*. He refers to the Law Commission's Consultation Paper **No 185** '*Reforming Bribery'* dated 31 October 2007 which led to the Bribery Act 2010 stressing that 'position of trust' should not be construed narrowly and that '*it may in some instances mean avoiding doing these things for the wrong reason*'.

**What were the written arguments advanced by the UK Government?**
It has to be noted that this Skeleton Argument is drafted in a hostile fashion which seeks to arrogantly brush away any challenge to Government action and in the process it uses language which is pejorative to the other side. The UK Government's argument is that the criminal law of bribery *'plainly does not apply to a confidence and supply agreement between political parties'*. Further it says that Mr McClean's argument is '*misconceived*' because the '*expenditure contemplated by'* the CSA '*will have appropriate Parliamentary authorisation'*.

The UK Government claims that there is a '*long established constitutional practice in this country*' that '*where an election results in no overall majority in the legislature'* for there to be '*arrangements*' whereby '*one political party offers its support to another on the strength of certain commitments'* of future policy support for the Government.

As to the Bribery Act 2010, the UK Government's case is that MPs do not have a duty to act impartially when voting in Parliament. It also says that that the '*voting behaviour of MPs falls squarely within the prohibition*' in Article 9 of the Bill of Rights 1689 which provides that the '*Freedome of Speech and Debates or Proceedings in Parlyament ought not to be impeached or questioned in any Court or Place out of Parlyament*'.

The UK Government then goes on to make its affirmative case. This is that money 'is made available by central Government to Northern Ireland' under section 58 of the Northern Ireland Act 1998. Such payments are 'normally included in the Main or Supplementary Estimates of the Norther Ireland Office'. These Estimates are 'subject to a vote in the House of Commons' and are 'typically subject to debate in that House'. Estimates which are then granted by the House of Commons become a 'Supply' once a Supply and Appropriation (Main Estimates) Act is passed by both Houses of Parliament. It also says that it is not unlawful for Ministers to request in these Estimates 'additional funds from Parliament to meet the commitments' in the Financial Support Agreement.

Finally it says that the DUP agreements are different to the 'homes for votes' in *Porter v. McGill* because the CSA/FSA have '*a sound public interest justification in their own right'*. It also says there is no statutory scheme that Mr McClean alleges the UK Government has breached (unlike *Porter* where there were specific breaches of section 32 of the Housing Act 1985).

**What submissions did the First Treasury Counsel personally advance in court?**
At the end of Mr Cooper's submissions, Lord Justice Sales told Mr Eadie that he didn't '*need to call on you'*. Although Mr Eadie had some oral submissions prepared these were not in the end presented to the court.

**What interventions did the judges make? What seemed to be troubling them?**
Lord Justice Sales was the most junior of the 3 judges who heard the Brexit judicial review over 3 days last year and not surprisingly he asked the most questions. He was hostile from the outset to Mr McClean's counsel. Sales LJ started his tirade by saying he '*struggled with the concept of additional expenditure*'. He noted that money carries on '*going out of the door'*. Sales LJ questioned Mr Sales how the Estimates lasted to which he was forced to concede they lasted for only 1 year and not the anticipated 5 year life of the Parliament. This led Sales LJ to note that if the spending commitments were going through the Estimates process, how it could be alleged that anything wrong had been done. The testiest exchanges with Mr Chambers were reserved by Lord Justice Sales for his submissions in relation to the *Fire Brigades Union* case. Sales LJ resented being told by counsel how to suck his *FBU* eggs, and bombarded counsel with his takes on the case reciting passages and reasoning that left Mr Chambers struggling for air. As to *Porter v. McGill*, Sales LJ put Mr Chambers on the spot by asking him to take the court to *Porter* and point to something outside a specific statutory scheme in the findings of the House of Lords. Mr Chambers was forced to concede that he could not. Sales LJ poured cold water on any argument based on section 58 of the Northern Ireland Act 1988 with a pithy intervention that '*aren't people in Northern Ireland hugely advantaged'* by the extra £1billion spending?

Mr Justice Lewis started his interventions to Mr McClean's counsel by referring to the pact between the Liberal and the Labour Parties in the 1970s which enabled a minority Labour Government to remain in power. Lewis J too asked whether the £1billion for Northern Ireland would come out of another budget or whether a new budget would have to be approved. Lewis J questioned Mr Chambers what would happen if the extra £1billion of money allocated for Northern Ireland had been spent, if the agreement was held to be unlawful, would the recipients of those funds have to repay them. Mr Chambers said funds would have to be repaid where '*something is unlawful at the outset'*. Lewis J said the £1billion would be included in the Estimates and unless there was a deal with the DUP there '*won't be stable government in the UK*'.

After 90 minutes of putting Mr Chambers through the mangle, they then had 1 hour of doing the same to Mr Cooper who buckled even more badly during his interventions. Sales LJ started by asking why it

would be improper for the government to give Northern Ireland an extra £1billion. Sales LJ said the DUP MPs knew what the CSA meant and that it was intended to last for the duration of the Parliament. Sales LJ said it would be '*perfectly proper'* for DUP MPs to vote for it. Sales LJ then interjected to question why MPs would '*ever vote impartially'* and that they were '*partial for their constituency'*. As to Mr Cooper's submission that the DUP had '*tied themselves'* to voting a certain way, Lewis J icily observed that they had '*done that in their manifesto'* anyway. Sales LJ said there was a difference to '*cash in brown envelopes to MPs personally*' and DUP MPs voting in accordance with the CSA which he said was '*perfectly proper'*. Finally Mr Cooper sunk any chance of Mr McClean getting permission with a concession which he made that his arguments on the Bribery Act 2010 were '*dependent on the 1st ground of challenge*'. This appears to be a concession wrongly made as the Grounds are predicated on 2 challenges, whilst being complementary, are free-standing ones.

**When will a decision on permission be handed down in this case?**
At the end of the hearing the Lord Chief Justice said that the court will take time to consider the matter and give our judgments '*as quickly as possible'*.

**What was the decision on permission?**
The Divisional Court later indicated on 26 October 2017 that permission to bring a judicial review would be refused. The reasoning for this was based on the fact that the £1billion extra for Northern Ireland would have to be approved by Parliament under the Estimates process.

**Will there be an appeal?**
Mr McClean has 21 days to issue an application with the Court of Appeal seeking to renew his application for permission. This would ordinarily be dealt with on the papers. Since the rules changed there is no right to an oral permission hearing in the Court of Appeal now unless a Lord Justice directs one. Mr McClean would also need to raise additional funds through crowd funding to support this next step.

**Is there anything else worth noting from the hearing?**
After the 2017 General Election, the deal with the DUP was presented by the Conservative Party as a done deal and the impression was given that £1billion would immediately be coming down the pipe to Northern Ireland. This has proved to be a false impression. The Confidence and Supply Agreement commits DUP MPs to voting a certain way on Queen's Speech, budget and confidence motions. However it is not made clear in the 26 June 2017 agreements with the DUP that the £1billion is not unconditional. It is conditional and it is conditional on the Westminster Parliament voting to approve revised estimates for Northern Ireland of £1billion. As some of the spending commitments are over 5 years, then these estimates will need to be approved every year for the next 5 years. It is telling that neither the CSA nor FSA commits the Conservative Party from voting in a certain manner be it on Estimates motions or otherwise. The question has not been answered whether this £1billion is new money. If it is, then either taxes will have to rise or cuts will have to be made elsewhere. Similarly if it is not 'new' money, then cuts will have to be made somewhere else in the budget. Where there are identified losers in these cuts, then MPs will have to vote in their constituent's interests. Although it is disappointing that Mr McClean has not been granted permission to bring a judicial review, bringing the case this far has been worthwhile in drawing out exactly what the DUP deal is. As the court documents and submissions show, what Mrs May spun the deal to the media on 26 June 2017 was far divorced from reality.

**29 October 2017**

David Bowden is a solicitor-advocate and runs David Bowden Law which is authorised and regulated by the Bar Standards Board to provide legal services and conduct litigation. He is the cases editor for the Encyclopedia of Consumer Credit Law. If you need advice or assistance in relation to consumer credit, financial services or litigation he can be contacted at info@DavidBowdenLaw.com or by telephone on (01462) 431444.