

Group Litigation Order refused in UCL Student Claim

By [Alex Leonhardt](#)

3PB Barristers

1. The High Court, on 10 July 2024, dealt with an application in the claim brought against UCL by thousands of former students whose learning was disrupted by the prolonged period of strikes and effects of Covid between 2017 and 2022.
2. The particular circumstances which fuelled this litigation are unlikely to be repeated anytime soon, but higher education providers will no doubt be watching the process of the claim carefully – not least because the firm running the claim for the students have indicated that other claims may be brought against other universities.
3. The Court was being asked by the Claimants to make a Group Litigation Order (“GLO”) – an application that had been delayed since May 2023 in order that ADR could be proceeded with.
4. At that earlier hearing, the court clearly expressed some concerns that student claimants were recruited in a rather informal way which stressed how easy it was to join the claim, with the court concerned that those claimants would need to set out the factual details of their case, including their pleaded losses, supported by a statement of truth. Obtaining this information was necessary before any GLO could be granted, in order that suitable sub-groups of claimants could be identified and test-cases chosen.
5. In support of their application, the Claimants pointed to the potential flexibility of group litigation in allowing new claimants to join the litigation. This was particularly pressing in light of the large number of UCL students who were affected, but had not yet instructed lawyers. The court was not satisfied that there were, in fact, significant numbers of such students.
6. A key point between the parties was the risk of different courts reaching inconsistent decisions, if a GLO were not made. However, the court was not convinced of the need for a GLO: (a) the issues identified for the GLO included matters which were, in part, fact-sensitive and where different outcomes could be reached between different Claimants,

and (b) matters of law or construction which were common between claims were binding as a result of precedent and *res judicata*, given the claims have been brought on consolidated claim forms.

7. The court also considered that the flexible nature of the court's standard case management powers meant that, "with cooperation and creativity" almost any feature of a GLO could be replicated. This included making provision for decisions on joint issues, which would not otherwise be subject to precedent or *res judicata*, to bind other Claimants. A GLO would delay progress being made in the claims and add unnecessary cost and expense.
8. Also of note was the threat of a potential future Unless Order should schedules of information relevant to each students' missed teaching not be provided according to the specified timetable. Reading the judgement of Senior Master Cook, one might be forgiven for perceiving a note of scepticism about how many of the Claimants will manage to provide the sufficiently detailed information necessary for a legal claim to proceed in their name.
9. The test cases of the surviving claims are likely to proceed to trial in early 2026, with the management of a claim from so many claimants with diverse particular situations no doubt likely to test the "cooperation and creativity" of both the parties and the court to the limit.

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Alex Leonhardt

Barrister
3PB Barristers
020 7853 8055
Alex.leonhardt@3pb.co.uk
3pb.co.uk