



**IN THE COMPETITION**  
**APPEAL TRIBUNAL**

Case No: 1740/12/13/25

**BETWEEN:**

**BRISTOL AIRPORT LIMITED**

Applicant

- v -

**WELSH MINISTERS**

Respondent

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**REASONED ORDER (PERMISSION TO APPEAL)**

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**UPON** the Tribunal's Judgment dated 7 April 2026 ([2026] CAT 30) dismissing the Applicant's application for review, under section 70(1) of the Subsidy Control Act 2022 (SCA), of the Respondent's decision to grant Cardiff International Airport Limited (CIAL) a subsidy (the **Judgment**)

**AND UPON** the Applicant having filed an application on 28 April 2026 seeking permission to appeal the Judgment and the accompanying order made on 7 April 2026 and drawn on 9 April 2026 (the **PTA Application**)

**AND UPON** the Respondent having filed a response to the PTA Application on 6 May 2026

**IT IS ORDERED THAT:**

1. The Applicant's application for permission to appeal is dismissed.

## REASONS

1. The Applicant (**Bristol**) seeks permission to appeal the Judgment on six grounds.

### Ground 1

2. The first ground is that the Tribunal failed to apply a sufficiently intense standard of review and failed to explain its reasoning as to the standard it did adopt (which is said by Bristol to have been a “light standard of review”).
3. In relation to the first, second and fourth of Bristol’s grounds of challenge under s70(1) SCA, no question of intensity of review arose, as the outcome turned on matters of statutory interpretation of the relevant provisions of the SCA, and not the reasonableness of the Respondent’s decision making. Bristol gives no indication as to which parts of the third ground of challenge its complaint about intensity of review is directed.
4. The Tribunal did set out the relevant judicial review principles in [60] to [64] of the Judgment. This directly addressed:
  - (a) Bristol’s argument about the relationship between the width of discretion and the need to gather relevant information (the fifth of the general principles in *Secretary of State for Education and Science v Thameside Metropolitan Borough Council* [1977] AC 1014, which the Tribunal accepted was applicable – see [62]).
  - (b) The Respondent’s argument that a low intensity of review will be applied to cases involving issues of political judgement, which the Tribunal understood Bristol to accept as a proposition of law (see [63] and [64]).
5. Bristol does not now seek to challenge those paragraphs and advances no other principle of law which it says the Tribunal has failed to address or apply.
6. Where the Tribunal applied these principles (which was in relation to the various challenges of reasonableness under the third ground of challenge), it did take into account the question of intensity of review and explained the reasons for the

approach taken. For example, the Tribunal recorded in a general observation in [198] its view that the challenges under the third ground were for the most part illustrative of a difference of opinion about weight rather than any irrationality.

7. In relation to the Tribunal's conclusions about the specific challenges to the Respondent's application of the principles, very few of these gave rise to any question of intensity of review, but where they did the Tribunal addressed that issue directly. See for example
  - (a) The discussion of the third challenge under Principle C, which is addressed at [230], [233] and [234] of the Judgment.
  - (b) The discussion of the second challenge under Principles B and F, which is addressed at [242] of the Judgment.
  - (c) The discussion of the third challenge under Principles B and F, which is addressed at [245] of the Judgment.
  - (d) The discussion of the other challenges under Principles B and F, which is addressed at [247] of the Judgment.
  - (e) The discussion of the challenge under Principle G, which is addressed at [253] of the Judgment.
8. It is therefore not correct that the Tribunal has failed to have sufficient regard to judicial review principles concerning the intensity of review or that it has failed to give reasons for the conclusions it has reached in that respect. Permission is refused for Ground 1.

## **Ground 2**

9. This ground concerns the Tribunal's interpretation of s19 and 20 SCA, in respect of which it is said that the Tribunal:
  - (a) Considered the words of s19 and 20 in isolation rather than in the context of Chapter 2 of the SCA.

- (b) Took an approach to s21 which was inconsistent with its interpretation of s19 and 20.
  - (c) Erred in its consideration of the TCA, the material from Hansard relating to the SCA and the DBT Guidance.
10. The first point is simply wrong, as the Tribunal (in accordance with established judicial guidance) started with the plain words of the sections and then considered at some length how they fit into the SCA as a whole, and in particular Chapter 2. See Judgment at [127] to [145].
  11. The second point is also wrong. The Tribunal identified that s21 used the same language as s19 and 20, with the purpose of the subsidy apparently determining whether the prohibition applies. See Judgment at [129(1)]. It was the contrast with other sections in Chapter 2 (including s22) which the Tribunal relied on to support its conclusion that there was a “purpose” requirement in s19 and 20. See Judgment at [130] to [132].
  12. In relation to the third point, the Tribunal derived little assistance from any of the three extraneous sources of material. It did find limited support in the TCA by reason of consistency of wording but noted that support was dependent on the plain meaning of the words used in s19 and 20. See Judgment at [159].
  13. The Hansard material was useful in confirming the Tribunal’s approach to the TCA but otherwise had little additional significance. See Judgment at [163]. The Tribunal also directly addressed at [164] the particular point made by Bristol about the apparent intent of the SCA. Bristol has not explained why the Tribunal has erred in that regard.
  14. Bristol’s arguments about the DBT Guidance simply repeat the arguments made by it at the hearing. These were dealt with at [165] to [173] of the Judgment and Bristol has not given any reasons as to why the Tribunal has erred in relation to them.
  15. Permission is therefore refused for Ground 2.

### **Ground 3**

16. Under this ground, Bristol asserts that the Tribunal failed properly to consider the question of whether CIAL was “ailing or insolvent”, including by reference to the time frame of short to medium term specified in s24, the time at which (as a matter of law) the assessment should be made and the evidence which Bristol says was relevant.
17. Bristol’s challenge seems to miss the point that the failure on its original second ground of challenge under s70(1) SCA, namely that if an organisation was ailing or insolvent, only rescue or restructuring aid could be given, means that the financial status of CIAL was not determinative of whether aid could be given. Nonetheless, the Tribunal did address the arguments about whether the Respondent considered whether CIAL was “ailing or insolvent”, which is the basis for the points advanced under Ground 3.
18. In any event, Bristol has failed to put forward any coherent reasons as to why the Tribunal’s analysis is flawed:
  - (a) In relation to the meaning of the medium term, it was not necessary to reach a concluded view on this as the material relied on by Bristol was not adequate to meet the test in s24 that CIAL would “almost certainly go out of business in the short to medium term”. See Judgment at [180].
  - (b) In relation to the evidence about CIAL’s financial health, the Tribunal found that the existence of the ESCF was the main reason why CIAL was not “ailing or insolvent” at the time the Subsidy was given. Given that the Tribunal accepted that was the correct counterfactual, it was largely dispositive of the question of whether CIAL was “ailing or insolvent”. See Judgment at [177].
  - (c) Bristol’s arguments about why the ESCF should be disregarded because it was a “bridge” to the Subsidy, or was the wrong reference point for assessing the question, or was inconsistent with other evidence, are hopeless and have no prospects of success on appeal.

- (d) In any event, all of the points advanced by Bristol under this ground are dealt with in the Judgment and Bristol has advanced no clear reasons as to why they disclose an error of law.

19. Permission is therefore refused for Ground 3.

#### **Ground 4**

20. Bristol asserts that the Subsidy was in substance one for restructuring, so that s20 must apply.

21. The Tribunal dealt with this in detail at Judgment [184] and [199] to [208]. Bristol does not explain in what respect this analysis is incorrect.

22. Permission is therefore refused for Ground 4.

#### **Ground 5**

23. This ground repeats various arguments advanced by Bristol at the hearing about the application of the Principles in the SCA. These are all dealt with in the Judgment and there is little explanation by Bristol as to why the Tribunal has erred as a matter of law, as opposed to having reached a different view from Bristol on the factual material.

24. In several respects the arguments advanced under this ground misstate the Tribunal's conclusions and/or introduce extraneous and irrelevant material:

- (a) In [19] of the PTA Application, Bristol confuses the application of Principle A and Principle E.
- (b) In relation to [20] of the PTA Application, and contrary to Bristol's assertion, the Judgment considered the Respondent's submissions about Principle E in [210] to [214].
- (c) The argument in [21(a)] about "operate" and "base" is of little or no relevance to the Tribunal's findings in [219] and [220] of the Judgment.

- (d) In [21(b)] of the PTA Application, Bristol ignores the fact that the Grant Agreement requires incentives to be on CMO Principle compliant terms. It was a matter for Bristol to show why this was not possible, not for the Respondent to prove it was. It is also too late for Bristol to challenge the Tribunal's historic ruling on expert evidence.
- (e) The arguments advanced in [21(c)] of the PTA Application ignore the point that Bristol misstated the requirements of the CMO Principle. See Judgment at [225].
- (f) In relation to [22(a)] of the PTA Application, the observations above in relation to Ground 1 are repeated. The LCC component accounted for approximately 15 – 20% of the overall Subsidy.
- (g) In relation to [22(b)], [22(c)] and [23] of the PTA Application, it is unclear on what basis Bristol complains about any error of law by the Tribunal, or why the point might be a material one affecting the outcome of the case.

25. Permission is therefore refused for Ground 5.

### **Ground 6**

26. Under this ground, Bristol asserts that the Tribunal has incorrectly applied s28 SCA. Bristol fails in any way to deal with the plain wording of the section, which leaves no room for the arguments it is advancing.

27. Permission is therefore refused for Ground 6.

Ben Tidswell  
Chair

Tim Frazer

John Alty

Charles Dhanowa  
C.B.E., K.C. (*Hon*)  
Registrar

Made: 28 May 2026

Drawn: 28 May 2026