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What, right now, would amount to an adequate reason for departing from a policy, guidance or established framework following Ammori [2026]?

Tom Cross K.C.

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1. Ammori
2. The law on public bodies departing from their own policies
3. When it is lawful for a public body not to follow the guidance of a different body which may relate to their decision?
4. Conclusions on law and practice

- Section 3 of the Terrorism Act 2000: Secretary of State may proscribe an organization if she believes it is concerned in terrorism
- Argument: SoS had breached her own policy as to the exercise of that power
- Policy stated that SoS would take into account “*other factors*” including as provided in a non-exhaustive list

*“Any decision-maker who adopts a policy for a particular purpose is at liberty to disapply or modify that policy in a particular case, but any such disapplication or modification must be express and must be for a **sufficient reason**.”* (emphasis added).

*“[i]f, as in this case, the decision-maker has adopted a policy on relevant considerations, that policy should be followed absent **good reason** not to”: emphasis added).*

A statement of approach as to how the public authority intends to exercise its discretionary powers.

R (Nadarajah) v Home Secretary [2005] EWCA Civ 1363 at [71]:

“[w]here a public authority has issued a promise or adopted a practice which represents how it proposes to act in a given area, the law will require the promise or practice to be honoured unless there is good reason not to do so”:
(emphasis added).

R (Lumba) v Secretary of State for the Home Department [2011] UKSC 12
[2012] AC 245

R (Good Law Project Ltd) v. The Prime Minister [2022] EWCA Civ 1580
[2023] 1 WLR 775

R. (Duke of Sussex) v SSHD [2025] EWCA Civ 548 [2025] 4 WLR 66

- “The nature of the policy itself”: including whether it is statutory or non-statutory, whether it was subject to consultation, the degree of formality with which the document was drafted and whether it was external or internal (see para 65) and
- “The deference the court ought to pay to the decision-maker in deciding whether it had a good reason”: At one end of the spectrum would lie reasons for departing from policies in the most sensitive issues of national security, where the Court should not second guess expert opinion. On the other hand, there will be run of the mill decisions (perhaps in immigration or benefits issues) where less deference is required (see 66).

R (Al-Haq v Secretary of State for Business and Trade)
[2025] EWHC 1615 (Admin)

R (Coventry City Council) v SSHD [2025] EWHC 2929

Guidance issued by someone else: scenarios

1. Statute requires public authority to follow guidance: *R v Islington LBC ex p Rixon* [1998] 1 CCLR 119
2. State requires only that the decision-maker take guidance into account: *Tesco Stores Ltd v Secretary of State for the Environment* [1995] 1 WLR 759
3. Statute does not refer to guidance but there exists guidance directed at the decision-maker's function: e.g. *R (Brown) v SSWP* [2008] EWHC 3158 (Admin)
4. Statute provides that the authority "may" have regard to it: e.g. *R (Khatun) v Newham London Borough Council* [2004] EWCA Civ, [2005] QB 37
5. Guidance as an "obviously material consideration": e.g. *R (Coghlan) v Chief Constable of Greater Manchester Police* [2004] EWHC 2801 (Admin), [2005] All ER 890

Departing from “must consider” guidance

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R (Munjaz) v Mersey Care NHS Trust [2005] UKHL 58 [2006] 2 AC 148

R (Argos Limited and others v Office of Fair Trading [2006] EWCA Civ 1318

R (Khatun) v Newham London Borough Council [2004] EWCA Civ 55 [2005] QB 37

“Good reasons” for departing from guidance

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R (DF) v Essex County Council [2024] EWCA Civ 1545

R (Somerset County Council) v Secretary of State for Education [2020] EWHC 1675 (Admin)

1. “Good reasons” is the test for departing from own policy
2. Rationality remains important in these cases in practice
3. Law on departing from guidance issued by another is subtler
4. For defendant: clear, contemporaneous reasons which are “good”. Context relevant to “spectrums” important to highlight.
5. For claimant: rationality is not the standard.

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