

Cains' Judgment Journal: *Comment from Cains on Isle of Man Judgments*

Entry Clearance - Not Conducive to the Public Good - Open-source Materials as Evidence

Cains' Comment

Credible open-source evidence and a senior role within a criminally linked organisation was enough to justify refusing entry on public-good grounds, even without proof of personal wrongdoing.

Tiejun Zhao v Immigration Officer, Isle of Man, Immigration Appeal, 10 February 2026

In May 2025, Mr Tiejun Zhao applied for entry clearance to the Isle of Man to take up a job offer as a worker migrant, also seeking entry for his dependants. His CV showed that from November 2021 to August 2024 he had worked as *Head of Payments* at a Manila-based company called Yabo.

After reviewing the CV, the Immigration Officer carried out open-source checks. These online sources linked Yabo to a Chinese organised crime group involved in human trafficking and illegal gambling. On this basis, a *Minded to Refuse* notice was issued in July 2025. While Mr Zhao accepted that Yabo was involved in serious criminality, he insisted he had been unaware of this during his employment.

The Immigration Officer ultimately refused the application, concluding that the information Mr Zhao had provided did not dispel concerns about his association with Yabo. Mr Zhao appealed to the Immigration Adjudicator.

The key points from the case included:

- The Adjudicator's role is not of review; but one where the Adjudicator is entitled to exercise their discretion.
- Under Rule 9.3.1 of the Immigration Rules in force at the time, entry must be refused if a person's conduct or associations mean their presence is not conducive to the public good.
- The Adjudicator, J M Brooks, noted that it must be established *on the balance of probabilities* that the Appellant's presence would not be conducive to the public good "...with the qualification that the seriousness of the allegation is to be reflected in the quality of the evidence required which is to be subject to critical and anxious scrutiny..." (*Hussain v SSHD* [2021] EWCA Civ 2781).
- Home Office guidance confirms that reliable open-source material *alone* can justify refusal.
- Although there was no direct evidence of Mr Zhao having himself been involved in criminal behaviour, the Immigration Officer was entitled to draw inferences from the relatively senior position that Mr Zhao held within the company, as per Mr Zhao's CV.
- Mr Zhao explanations were found unconvincing and suggested he was trying to obscure the nature of his involvement.

The appeal was dismissed.

The Adjudicator held that the Immigration Officer was entitled to rely on the open-source evidence and to conclude that Mr Zhao was likely aware of Yabo's criminality. Allowing him to enter posed a real risk, and the job he had been offered could be filled by an alternative candidate.

The full judgment can be found at: https://www.judgments.im/content/IMM25_026-100226.pdf

Preferential creditor status – Statutory Interpretation – Double Taxation Agreement

Cains' Comment

In this case, an appeal acted as a catalyst for legislative correction; resolving a conflict in Manx law as to whether HMRC enjoyed preferential creditor status in an Isle of Man winding up.

R Moorgate Industries UK Limited v Global Steel Holdings Limited (In Liquidation), High Court of Justice of the Isle of Man, Staff of Government Division, 10 February 2026

When the joint liquidators of Global Steel Holdings sought guidance on whether a potential HMRC income tax claim would rank ahead of other creditors, a conflict emerged between Regulation 4(3) of the Recovery of Foreign Taxes Regulations 2021 (the “Regulations”) and Article 27(5) of the Double Taxation Agreement and Protocol (the “DTA”). The First Deemster¹ held in 2021 that s97 Income Tax Act 1970, which makes income tax a “preference debt due to the Crown,” should be read as giving HMRC that priority in the Isle of Man. He also ruled that the liquidators’ costs should come from the company’s assets.

Major creditor, Moorgate Industries UK Ltd, appealed.

Key Points:

1. Statutory Conflict and Appeal Process

At a directions hearing in late 2024, Moorgate was directed to notify HMRC and the Isle of Man Income Tax Division of the appeal. The appeal was then paused while Treasury considered whether the Regulations should be changed.

In early 2025, the Attorney General’s Chambers suggested that removing the reference to s97 would bring the Regulations into line with the DTA, which gives no special priority to UK tax debts in Manx liquidations.

2. Legislative Fix

Treasury adopted this approach. The Recovery of Foreign Taxes (Amendment) Regulations 2025 were approved on 17 July 2025, resolving the conflict and confirming that HMRC would not enjoy preferential status.

Once the law was clarified, the liquidators paid a 3% interim dividend to creditors, and Moorgate withdrew the appeal.

3. Costs

The remaining issue was who should pay the appeal costs. Under Rules 11.3(1), 11.3(2) and 11.5 of the High Court of Justice 2009, the Judge of Appeal had broad discretion, including when there is no clear winner or loser. Here, the appeal itself prompted the regulatory amendment, which ultimately benefited Moorgate. No party had acted unreasonably, and neither side caused unnecessary expense.

The Judge of Appeal held that the fairest solution was for costs to be paid out of Global Steel Holdings' assets, as at first instance.

The full judgment can be found at:

<https://www.judgments.im/content/Judgment%20DS2024.24%2010.2.26.pdf>

Please note that this note does not constitute legal advice but is provided as non-reliance guidance only. For more information on Isle of Man Litigation Law, please contact: Robert Colquitt or Tara Cubbon-Wood.

Reference

¹ The term used to refer to judges in the Isle of Man judiciary.

Tara Cubbon-Wood, Director

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